

Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

GENERAL LICENSING
REQUIREMENTS

Title 22
Division 6
Chapter 1



STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

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TABLE OF CONTENTS**TITLE 22, DIVISION 6****CHAPTER 1 GENERAL LICENSING REQUIREMENTS****Article 1. General Definitions**

	Section
General	80000
Definitions	80001

Article 2. License

License Required	80005
Operation Without a License	80006
Exemption From Licensure	80007
Licensing of Integral Facilities	80008
Limitations on Capacity and Ambulatory Status	80010
Advertisements and License Number	80011
False Claims	80012

Article 3. Application Procedures

Nondiscrimination of Applicants	80017
Application for License	80018
Criminal Record Clearance	80019
Criminal Record Exemption	80019.1
Child Abuse Central Index.....	80019.2
Fire Clearance	80020
Water Supply Clearance	80021
Plan of Operation	80022
Disaster and Mass Casualty Plan	80023
Waivers and Exceptions	80024
Bonding	80025
Safeguards for Cash Resources, Personal Property, and Valuables	80026
Initial Application Review	80027
Capacity Determination	80028
Withdrawal of Application	80029
Provisional License	80030
Issuance of License	80031
Repealed by CDSS Manual Letter No. CCL-01-07, effective 6/29/01	80032
Repealed by CDSS Manual Letter No. CCL-01-07, effective 6/29/01.....	80033
Submission of New Application	80034
Conditions for Forfeiture of a Community Care Facility License	80035
Licensing Fees	80036

TABLE OF CONTENTS (Continued)**Article 4. Administrative Actions**

	Section
Denial of Initial License	80040
Repealed by CDSS Manual Letter No. CCL-01-07, effective 6/29/01.....	80041
Revocation or Suspension of a License	80042
Licensee/Applicant Complaints	80043
Inspection Authority of the Licensing Agency	80044
Evaluation Visits	80045
Exclusions	80046

Article 5. Enforcement Provisions

Serious Deficiencies	80051
Deficiencies in Compliance	80052
Follow-up Visits to Determine Compliance	80053
Penalties	80054
Administrative Review	80055
Denial or Revocation of License for Failure to Pay Civil Penalties	80055.1
Exemption from Civil Penalties	80056
Unlicensed Facility Penalties.....	80058
Unlicensed Facility Administrative Appeal.....	80059

TABLE OF CONTENTS (Continued)**Article 6. Continuing Requirements**

	Section
Reporting Requirements	80061
Finances	80062
Accountability	80063
Administrator-Qualifications and Duties	80064
Personnel Requirements	80065
Personnel Records	80066
Admission Agreements	80068
Needs and Services Plan	80068.2
Modifications to Needs and Services Plan.....	80068.3
Eviction Procedures	80068.5
Client Medical Assessments	80069
Renumbered and amended to Section 80092.2 by Manual Letter No. CCL-98-05, effective 10/1/98	80069.1
Functional Capabilities Assessment.....	80069.2
Renumbered to Section 85069.3 by Manual Letter No. CCL-98-09, effective 10/1/98	80069.3
Client Records	80070
Register of Clients	80071
Personal Rights	80072
Telephones	80073
Transportation	80074
Health-Related Services	80075
Automated External Defibrillators (AEDs)	80075.1
Food Service	80076
Personal Services (Reserved)	80077
Care for Clients Who Rely Upon Others to Perform All Activities of Daily Living.....	80077.2
Care for Clients Who Lack Hazard Awareness or Impulse Control.....	80077.3
Care for Clients with Incontinence	80077.4
Care for Clients with Contractures.....	80077.5
Responsibility for Providing Care and Supervision	80078
Activities (Reserved)	80079

Article 7. Physical Environment

Alterations to Existing Buildings or New Facilities	80086
Buildings and Grounds	80087
Fixtures, Furniture, Equipment and Supplies	80088

TABLE OF CONTENTS (Continued)**Article 8. Incidental Medical Services**

	Section
Health and Safety Services	80090
Prohibited Health Conditions.....	80091
Restricted Health Conditions	80092
General Requirements for Restricted Health Conditions.....	80092.1
Restricted Health Condition Care Plan	80092.2
Inhalation-Assistive Devices	80092.3
Colostomy/Ileostomy	80092.4
Fecal Impaction Removal, Enemas or Suppositories.....	80092.5
Indwelling Urinary Catheter/Catheter Procedure.....	80092.6
Repealed by CDSS Manual Letter No. CCL-22-01, effective 2/7/22.....	80092.7
Diabetes	80092.8
Wounds	80092.9
Gastrostomy Feeding, Hydration, and Care.....	80092.10
Tracheostomies	80092.11
Renumbered to Section 80092.11 by Manual Letter No. CCL-98-05, effective 10/1/98	80092.12
Department Review of Health-Related Conditions.....	80093
Health Condition Relocation Order	80094
Client's Request for Review of a Health Condition Relocation Order by the Interdisciplinary Team (IDT).....	80094.5
Repealed by Manual Letter No. CCL-02-10, effective 9/8/02.....	80095

GENERAL LICENSING REQUIREMENTS

This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the Department of Social Services (DSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting DSS programs
- c) Statutes from appropriate Codes which govern DSS programs
- d) Court decisions; and
- e) Operational standards by which DSS staff will evaluate performance within DSS programs.

Regulations of DSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other departments' regulations and statutes are mandatory, not optional.

Questions relative to this Users' Manual should be directed to your usual program policy office.

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CHAPTER 1 -- GENERAL LICENSING REQUIREMENTS**Article 1. GENERAL DEFINITIONS****80000 GENERAL****80000**

- (a) The general regulations in this chapter shall apply to all community care facilities regulated by Division 6, Chapters 4 through 6, and Chapter 9, except where specifically exempted. Additional or special requirements found in the corresponding chapters pertaining to each category shall apply only to such individual facility categories.
- (b) The licensee shall ensure compliance with all applicable law and regulations.
- (c) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (d) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (e) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (f) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.
- (g) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code.

80001 DEFINITIONS**80001**

The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1 through 1, 4 through 6, and 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.

- (a) (1) "Activities of Daily Living" (ADLs) mean the following six activities:
- (A) Bathing: Cleaning the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing and drying.
 - (B) Dressing: Putting on and taking off, fastening and unfastening garments and undergarments and special devices such as back or leg braces, corsets, elastic stockings/garments and artificial limbs or splints.
 - (C) Toileting: Getting on and off a toilet or commode, emptying a commode, managing clothes, wiping and cleaning the body after toileting, and using and emptying a bedpan and urinal.
 - (D) Transferring: Moving from one sitting or lying position to another sitting or lying position (e.g., from bed to or from a wheelchair, or sofa, coming to a standing position and/or repositioning to promote circulation and to prevent skin breakdown).
 - (E) Continence: Ability to control bowel and bladder as well as to use ostomy and/or catheter receptacles, and to apply diapers and disposable barrier pads.
 - (F) Eating: Reaching for, picking up, grasping a utensil and cup; getting food on a utensil; bringing food, utensil, and cup to mouth; manipulating food on plate; and cleaning face and hands as necessary following meal.

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See also the definition of "Client Who Relies Upon Others to Perform All Activities of Daily Living" in Section 80001c.(7).

HANDBOOK ENDS HERE

- (2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
- (3) "Adult" means a person who is 18 years of age or older.
- (4) "Adult Community Care Facility" (Adult CCF) means an adult residential facility (ARF).

80001 **DEFINITIONS (Continued)****80001**

- (5) "Adult Residential Facility" means any facility of any capacity that provides 24-hour-a-day nonmedical care and supervision to the following:
- (A) persons 18 years of age through 59 years of age; and
 - (B) persons 60 years of age and older only in accordance with Section 85068.4.
- (6) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for community care facility license, administrator certificate, or special permit.
- (7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- (8) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- (c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.

80001 DEFINITIONS (Continued)**80001**

- (3) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 80075.
 - (C) Central storing and/or distribution of medications, as specified in Section 80075.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of clients.
 - (F) Supervision of client schedules and activities.
 - (G) Maintenance and/or supervision of client cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 80001b.(2).
- (4) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
 - (E) Allowances paid to children.
 - (F) Any other similar resources as determined by the licensing agency.
- (5) "Certified administrator" means an administrator who has been issued a group home or adult residential facility certificate by the Department and whose certificate is current.

80001 **DEFINITIONS (Continued)****80001**

- (6) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.
- (7) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.
- (8) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section 102352f.(1) in which less than 24-hour per day nonmedical supervision is provided for children in a group setting.
- (9) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes "resident" as used in the Community Care Facility Act.
- (10) "Client Who Relies Upon Others To Perform All Activities of Daily Living" means a client who is unable to perform all six activities of daily living without physical assistance.

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(See also the definition of Activities of Daily Living in Section 80001a(1).)

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- (11) Close friend. "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (12) "Community Care Facility" means any facility, place or building where nonmedical care and supervision, as defined in Section 80001c.(2) are provided.
- (13) "Community Treatment Facility" means any residential facility that provides mental health treatment services to children in a group setting which has the capacity to provide secure containment. The facility's program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

80001 DEFINITIONS (Continued)**80001**

- (14) "Completed Application" means:
- (A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section 80019.
 - (B) The licensing agency has completed a site visit to the facility.
- (15) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- (16) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
- (17) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
- (A) a Grant Deed showing ownership; or
 - (B) the lease agreement or rental agreement; or
 - (C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
- (18) "Conviction" means:
- (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (19) "Criminal Record Clearance" means an individual has a California clearance and an FBI clearance.
- (d) (1) "Day" means calendar day unless otherwise specified.

80001 **DEFINITIONS** (Continued)**80001**

- (2) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.
- (3) "Delayed-Egress Device" means a special time-delay, egress-control device as specified in Health and Safety Code Sections 1531.1(b), (e), and 1569.699(a).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1531.1(b) is paraphrased in pertinent part:

As used in this section, "delayed-egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

- (B) Health and Safety Code Section 1531.1(e) is paraphrased in pertinent part:

The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

- (C) Health and Safety Code Section 1569.699(a) is paraphrased in pertinent part:

When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or demential, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

1. Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.

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2. Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.
3. Be capable of being deactivated by a signal from a switch located in an approved location.
4. Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities, for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.
5. Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.
6. The unlatching shall not require more than one operation.
7. A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING. THIS DOOR WILL OPEN INSECONDS. ALARM WILL SOUND.

Sign letters shall be at least one inch (25 mm) in height and shall have a stroke of not less than 1/8 inch (3.3 mm).
8. Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

HANDBOOK ENDS HERE

- (4) "Dementia" means a deterioration of intellectual function and other cognitive skills, leading to a decline in one's ability to perform activities of daily living.
- (5) "Department" is defined in Health and Safety Code Section 1502(b).

80001 **DEFINITIONS** (Continued)**80001**

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- (A) Department means the California Department of Social Services.

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- (6) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code Section 4512(a) provides in part: "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual.

This term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

HANDBOOK ENDS HERE

- (7) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.

- (8) "Director" is defined in Health and Safety Code Section 1502(c).

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- (A) Director means the director of the California Department of Social Services.

HANDBOOK ENDS HERE

- (e) (1) "Egress-Alert Device" means a wrist band or other device, that may be worn by a client or carried on a client's person that triggers a visual or auditory alarm when the client leaves the facility building or grounds.

- (2) "Elderly Person" means any person who is 60 years of age or older.

- (3) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

80001 DEFINITIONS (Continued) 80001

- (4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- (5) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.
- (6) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff person(s) and are not transferable or applicable to other client(s), staff person(s), facilities or licensees.
- (7) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1522(g) reads in part:

After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for a license, special permit, or certificate of approval pursuant to subdivision (d), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c).

HANDBOOK ENDS HERE

- (8) "Existing Facility" means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.
- (f) (1) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

80001 DEFINITIONS (Continued)**80001**

- (g) (1) "Group Home" means any facility of any capacity which provides 24-hour care and supervision to children in a structured environment, with such services provided at least in part by staff employed by the licensee. The care and supervision provided by a group home shall be nonmedical except as permitted by Welfare and Institutions Code Section 17736(b).

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code Section 17736(b) reads in pertinent part:

Counties, regional centers and foster family agencies shall permit...the licensee and other personnel meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in his or her individualized health care plan provided that the child was placed as of November 1, 1993.

HANDBOOK ENDS HERE

- (2) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.
- (h) (1) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a client from a CCF because either the licensee is not providing adequate care for a client's health condition as required by the regulations or the client cannot be cared for within the limits of the license or the client requires in-patient care in a health facility or has a prohibited health condition, as specified in Section 80091.
- (2) "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.
- (i) (1) "Infant" means a child under two years of age.
- (2) "Inhalation-assistive device" means any equipment that assists a client to breath, including, but not limited to, aerosol delivery devices, nebulizers, humidifiers, incentive spirometry devices, positive airway pressure devices, and positive expiratory pressure devices, and intermittent positive pressure breathing (IPPB) machines.
- (3) "Interdisciplinary Team" (IDT) means a team that assists the Department in evaluating the need for relocating a client of an ARF when the client requests a review of the Department's Health Condition Relocation Order. This team consists of a nurse practitioner and a social worker, designated by the Department, with experience in the needs of the client population. Persons selected for an IDT shall not have been involved in the initial decision to issue a relocation order for the client in question.

80001 **DEFINITIONS** (Continued)**80001**

- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "Lacks Hazard Awareness or Impulse Control" means that the client poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting.
- (2) "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.
- (3) "Licensed professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.
- (4) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.
- (5) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- (m) (1) "Mandated Reporter" is defined in Welfare and Institutions Code Section 15630(a).

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 15630(a) provides:

Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

HANDBOOK ENDS HERE

80001 **DEFINITIONS** (Continued)**80001**

- (2) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).
- (3) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.
- (n) (1) "Needs and Services Plan" means a written plan that identifies the specific needs of an individual client, including those items specified in Section 80068.2, and delineates those services necessary to meet the client's identified needs.
- (2) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.
- (A) A person who uses postural supports as specified in Section 80072(a)(8) is deemed nonambulatory.
- (B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

HANDBOOK BEGINS HERE

- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.

HANDBOOK ENDS HERE

- (3) "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

80001 DEFINITIONS (Continued)**80001**

- (o) (Reserved)
- (p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- (2) "Placement agency" is defined in Health and Safety Code Sections 1536.1 and 1569.47(a).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Sections 1536.1 and 1569.47(a) are combined and paraphrased in pertinent part:

"Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and Regional Center for persons with developmental disabilities, which is engaged in finding homes or other places for the placement of persons of any age for temporary or permanent care.

HANDBOOK ENDS HERE

- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.
- (4) "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.
- (5) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section 80030.
- (q) (Reserved)
- (r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.
- (2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

80001 DEFINITIONS (Continued)**80001**

- (3) "Responsible person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assists the client or prospective client in placement or assumes varying degrees of responsibility for the client's well-being. A responsible person cannot act on behalf of a client unless authorized by law.
- (s) (1) "Serious Bodily Injury" is defined in Welfare and Institutions Code Section 15610.67.

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 15610.67 provides:

"Serious bodily injury" means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

HANDBOOK ENDS HERE

- (2) "Secured Perimeters" shall have the same meaning as Health and Safety Code section 1531.15(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (b) As used in this section, "secured perimeters" means fences that meet the requirements prescribed by this section.
- (c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing secured perimeters:
- (1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.
- (2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).
- (3) (A) The person shall be 14 years of age or older, except as specified in subparagraph (B).

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed group home described in subdivision (a) using secured perimeters only if both of the following occur:
- (i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.
 - (ii) The regional center requests placement of the child in a licensed group home described in subdivision (a) using secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting such as a developmental center, institution for mental disease or psychiatric facility, and the State Department of Developmental Services approves the request.
- (4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code.
- (5) (A) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall convene every 90 days after admission to determine and document the continued appropriateness of the current placement and progress in implementing the transition plan.

HANDBOOK CONTINUES

80001 **DEFINITIONS (Continued)****80001**

HANDBOOK CONTINUES

- (B) The clients' rights advocate for the regional center shall be notified of the proposed admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

- (j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

HANDBOOK ENDS HERE

- (3) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.

- (4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1522(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

HANDBOOK BEGINS HERE

- (A) See Section 80051 and other applicable sections in Chapters 2, 4 through 7, and Chapter 9, for examples of violations which commonly result in serious deficiencies.

HANDBOOK ENDS HERE

- (5) "Small Family Home" means any residential facility in the licensee's family residence providing 24-hour a day care for six or fewer children who are mentally disordered, developmentally disabled or physically handicapped and who require special care and supervision as a result of such disabilities.

- (6) "Social Worker" means a person who has a graduate degree from an accredited school of social work.

- (7) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.

80001 **DEFINITIONS** (Continued) **80001**

- (8) "Substantial Compliance" means the absence of any serious deficiencies.
- (9) "Substantiated Complaint" means a complaint which has been investigated by the licensing agency, and as a result, a violation of regulations has been found.
- (t) (1) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a client or resident from one facility to another.
- (u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, Universal Precautions consist of regular hand-washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes the use of gloves when handling blood or body fluids that contain blood. Specifically, Universal Precautions consist of the following four basic infection guidelines:
- (A) Hand-washing - Staff should wash their hands:
1. After assisting with incontinent care or wiping a client's nose.
 2. Before preparing or eating foods.
 3. After using the toilet.
 4. Before and after treating or bandaging a cut.
 5. After wiping down surfaces, cleaning spills, or any other housekeeping.
 6. After being in contact with any body fluids from another person.
 7. Even if they wore gloves during contact with body fluids.
- (B) Gloves - Staff should always wear gloves:
1. When they come into contact with blood or body fluids that contain blood.
 2. When they have cuts or scratches on their hands.
 3. When assisting with incontinent care or when cleaning up urine, stool, or vomit.
 4. When administering first aid for a cut, a bleeding wound, or a bloody nose.
 5. And use gloves only one time, for one incident or client.
 - a. Staff must air dry their hands prior to putting on a new pair of gloves.
 6. And dispose of used gloves immediately after use.

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80001**DEFINITIONS (Continued)****80001**

- (C) Cleaning with a disinfectant - Staff should clean with a disinfectant:
1. On all surfaces and in the client's room and on an "as needed" basis on any surface that has come into contact with blood.
 2. Such as a basic bleach solution, made fresh daily by mixing:
 - a. 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.
- (D) Proper disposal of infectious materials - Staff should dispose of infectious materials by:
1. Placing it in a plastic trash bag, tying it with a secure tie, and disposing of it out of reach of clients and children.
- (2) "Unlicensed Community Care Facility" means a facility as defined in Health and Safety Code Section 1503.5.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1503.5 provides:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

- (1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (4) The facility represents itself as a licensed community care facility.

HANDBOOK ENDS HERE

80001

DEFINITIONS (Continued)

80001

- (B) A facility which is "providing care and supervision" as defined in Section 80001c.(2) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members for temporary or permanent care.
- (C) A facility which is "held out as or represented as providing care or supervision" includes, but is not limited to:
- (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
 - (2) A facility where a change of ownership has occurred and the same clients are retained.
 - (3) A licensed facility that moves to a new location.
 - (4) A facility which advertises as providing care and/or supervision.
- (D) A facility which "accepts or retains residents who demonstrate the need for care or supervision" includes, but is not limited to:
- (1) A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.
 - (2) A facility which houses unemancipated minors, even though the facility is providing board and room only, or board only, or room only.
 - (3) A facility where it is apparent that care and/or supervision are being provided by virtue of the client's needs being met.
- (3) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to a client's physical health, mental health, safety, or welfare. Circumstances constituting urgent need include but are not limited to the following:
- (A) A change in facility location when clients are in need of services from the same operator at the new location.
 - (B) A change of facility ownership when clients are in need of services from a new operator.

80001 **DEFINITIONS** (Continued)**80001**

(v) (Reserved)

(w) (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

(2) Repealed by Manual Letter No. 98-05, effective 10/1/98.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1502, 1522.41(j), 1524(e), 1530, 1530.9 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1502, 1502(a)(8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1531.15, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196, and 11834.02, Health and Safety Code; Sections 11006.9, 17736(a), 17736(b) and 15610.67, Welfare and Institutions Code; 29 CFR 1910.1030; and Joint Stipulation and Order for Settlement in the matter of *California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al.*, Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

Article 2. LICENSE**80005 LICENSE REQUIRED****80005**

- (a) Unless a facility is exempt from licensure as specified in Section 80007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1505, 1508, 1509, 1513 and 1531, Health and Safety Code.

80006 OPERATION WITHOUT A LICENSE**80006**

- (a) An unlicensed facility as defined in Section 80001u.(2), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 80007.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1538(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 80058 and Section 1547 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

HANDBOOK ENDS HERE

- (e) Sections 80006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.
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HANDBOOK BEGINS HERE

- (1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

HANDBOOK ENDS HERE

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the clients' health and safety.
- (2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of operation in violation of law.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1533, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

80007 EXEMPTION FROM LICENSURE**80007**

- (a) The community care facility regulations contained in this division shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1202 of the Health and Safety Code.
 - (3) Any family day care home providing care for the children of only one family, in addition to the operator's own children.
 - (4) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.
 - (5) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.
 - (6) Any school dormitory or similar facility where all of the following conditions exist:
 - (A) The school is certificated/registered by the State Department of Education.
 - (B) The school and the school dormitory are on the same grounds.
 - (C) All children accepted by the school are six years of age or older.
 - (D) The program operates only during normal school terms unless the academic program runs year-around.
 - (E) The school's function is educational only.
 - (F) The school program is not designated as providing rehabilitative or treatment services.
 - (G) The school's function does not promote intent to provide community care services, and the facility does not accept children who are in need of such services, including but not limited to children with developmental disabilities, mental disorders or physical handicaps; juveniles declared dependents of the court under Welfare and Institutions Code Section 300, and juveniles declared wards of the court under Welfare and Institutions Code Section 601 and 602.

80007 EXEMPTION FROM LICENSURE (Continued) 80007

- (H) The facility does not receive any public funds designated for care including but not limited to AFDC-FC and SSI/SSP. The facility shall be permitted to receive public funds intended for educational programs.
- (I) No public or private agency, including but not limited to county welfare department and probation offices, provides social services to children in the facility.
- (7) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, which provides no element of care and supervision, as defined in Section 80001c.(2).
- (8) Any cooperative arrangement between parents for the day care of their children by one or more of the parents where no payment for the day care is involved, including but not limited to the exchange of child day care services between two or more families.
- (9) Any care and supervision of persons by a relative, guardian or conservator.
- (10) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.
 - (A) Provision of longer hours of care shall not be precluded when provided for a brief period of time for reasons, including but not limited to family emergencies, vacation, and military leave.
- (11) Any arrangement for the care and supervision of an adult or adults from only one close friend, who is not a licensee or current employee of a Residential Care Facility for the Elderly or of an Adult Residential Facility, and whose friendship pre-existed a provider/recipient relationship, and all of the following are met:
 - (A) The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.
 - (B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.
 - (C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.
- (12) Any facility exclusively used by a licensed homefinding agency and issued a certificate of approval by the agency.

80007 EXEMPTION FROM LICENSURE (Continued)**80007**

- (A) Such facilities shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The facility's compliance with requirements shall be monitored through and assured by the homefinding finding agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been certified by a licensed homefinding agency as conforming to the regulations pertaining to the small family home category. A facility in the exclusive use of a licensed homefinding agency shall accept only those children placed by that agency which certified the home.
- (13) A home which meets all of the following criteria:
- (A) approved by a licensed adoption agency, or the Department, for the adoptive placement of a child, and
 - (B) the child is legally free for adoption, and
 - (C) the agency or the Department is providing supervision of the placement pending finalization of the adoption.

HANDBOOK BEGINS HERE

Being exempt from licensure does not preclude a home from being licensed.

HANDBOOK ENDS HERE

- (14) A home which meets all of the following criteria:
- (A) placement for adoption by a birth parent, and
 - (B) a petition for adoption has been filed by the prospective adoptive parents, and is pending, and
 - (C) a final decision on the petition has not been rendered by the court.

HANDBOOK BEGINS HERE

Being exempt from licensure does not preclude a home from being licensed.

HANDBOOK ENDS HERE

- (15) Any placement agency as defined in Health and Safety Code Section 1536.1 or an individual who places individuals for care in a facility licensed to receive and care for such persons.
- (16) A county probation or welfare department which places children in certified license pending homes as set forth in Section 87007.1.

80007	EXEMPTION FROM LICENSURE (Continued)	80007
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- (17) Any housing project for elderly or disabled individuals that meets federal requirements specified in Health and Safety Code Section 1505(p).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1505(p) provides:

“Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d(3) of Public Law 87-70 (12 U.S.C.A. Sec.17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator. (Note: Health and Safety Code Section 1505(p) incorrectly cites Section 202 of Public Law 86-372 (12 U.S.C.A Section 1701g). (Emphasis added). the correct citation, as cited in this Handbook, is Section 1701q). (Emphasis added).”

HANDBOOK ENDS HERE

(18) The Department.

(19) Any similar facility as determined by the Director.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1505, 1508, 1530, 1530.5, and 1536.1, Health and Safety Code; and Sections 362, 727 and 16100, Welfare and Institutions Code, Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

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80008	LICENSING OF INTEGRAL FACILITIES	80008
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- (a) Upon written application from the licensee, the licensing agency shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1508, 1509 and 1513, Health and Safety Code.

80010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS**80010**

- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including the capacity limitation.
- (b) Facilities or rooms approved for ambulatory clients only shall not be used by nonambulatory clients.
 - (1) Clients whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory clients.
 - (2) The licensing agency shall have the authority to require clients who use ambulatory sections of the facility to demonstrate that they are ambulatory.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528 and 1531, Health and Safety Code.

80011 ADVERTISEMENTS AND LICENSE NUMBER**80011**

- (a) Licensees shall reveal each facility license number in all advertisements in accordance with Health and Safety Code Section 1514. Non-residential facilities shall be exempt from this requirement.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code, Section 1514 provides:
 - (a) Each residential care facility licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.
 - (b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) shall include, but are not limited to, those contained in the following:
 - (1) Newspaper or magazine.
 - (2) Consumer report.
 - (3) Announcement of intent to commence business.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (4) Telephone directory yellow pages.
- (5) Professional or service directory.
- (6) Radio or television commercial.

HANDBOOK ENDS HERE

- (b) Correspondence shall be considered a form of advertisement if the intent is to attract clients.
- (c) Licensees who operate more than one facility and use a common advertisement for these facilities shall be required to list each facility license number in accordance with Health and Safety Code Section 1514.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1514, Health and Safety Code.

- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1508 and 1531, Health and Safety Code.

Article 3. APPLICATION PROCEDURES**80017 NONDISCRIMINATION OF APPLICANTS****80017**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, gender identity, HIV status or ancestry.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1520, Health and Safety Code; Section 16013, Welfare and Institutions Code.

80018 APPLICATION FOR LICENSE**80018**

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.
- (b) Prior to filing an application, the applicant shall attend an orientation designed for the specific facility type and provided by the licensing agency.
- (1) The orientation shall cover, but not be limited to, the following areas:
- (A) Completion of the application for license.
- (B) Scope of operation subject to regulation by the department.
- (2) An applicant, who is already licensed for a facility in the same category, shall not be required to attend an orientation if the last orientation attended was for the same facility type and within two (2) years of the next scheduled orientation.
- (3) An applicant applying for more than one facility license, in the same facility type, shall be required to attend only one orientation.
- (c) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (d) The application and supporting documents shall contain the following:
- (1) Name or proposed name and address of facility.
- (2) Name, and residence and mailing addresses of applicant.
- (A) If the applicant is a partnership, the name, and principal business address of each partner.
- (B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.

80018 APPLICATION FOR LICENSE (Continued) 80018

- (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.
 - (D) If the applicant is a corporation or association, a copy of the articles of incorporation, constitution and bylaws.
 - (E) If the applicant is a corporation, each member of the board of director, executive director, and any officer shall list the name of facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.
- (3) Name and address of owner of facility premises if applicant is leasing or renting.
 - (4) Procedures as required pursuant to Section 1524.5 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1524.5 provides:
 - (a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee, is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.
 - (b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee or person designated by the owner or licensee will be present.
 - (c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

HANDBOOK ENDS HERE

80018 APPLICATION FOR LICENSE (Continued)**80018**

- (5) The category of facility to be operated.
- (6) Maximum number of persons to be served.
- (7) Age range, sex and the categories of persons to be served, including but not limited to persons with developmental disabilities, mental disorders, physically handicapped and/or nonambulatory persons.
- (8) Hours or periods of facility operation.
- (9) Name of administrator, if applicable.
- (10) Information required by Health and Safety Code Section 1520(d).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1520(d) provides:

Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

HANDBOOK ENDS HERE

- (11) Information required by Health and Safety Code Section 1520(e).

HANDBOOK BEGINS HERE

- (A) Information regarding any revocation or temporary suspension action taken or in the process of being taken against a license held or previously held by the applicant or while the applicant served in any of the capacities specified in (9) above.

HANDBOOK ENDS HERE

- (12) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
- (13) A plan of operation as specified in Section 80022.

80018 APPLICATION FOR LICENSE (Continued)**80018**

- (14) Fingerprint cards as specified in Section 80019.
- (15) Information required by Health and Safety Code Section 1522.1.

HANDBOOK BEGINS HERE

- (A) Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

HANDBOOK ENDS HERE

- (16) The bonding affidavit specified in Section 80025(a).
- (17) A health screening report on the applicant as specified in Section 80065(g).
- (18) The fee for processing the application by the requested capacity as specified in Section 80036.
- (19) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1520(g) provides:

Any other information which may be required by the department for the proper administration and enforcement of this chapter.

HANDBOOK ENDS HERE

- (e) The application shall be signed by the applicant.
 - (1) If the applicant is a partnership, the application shall be signed by each partner.
 - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

80018 APPLICATION FOR LICENSE (Continued)**80018**

- (f) The application shall be filed with the licensing agency which serves the geographical area in which the facility is located.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1520.11, 1522, 1522.1, 1523.1, 1524.5, and 1560, Health and Safety Code.

80019 CRIMINAL RECORD CLEARANCE**80019**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

HANDBOOK BEGINS HERE

- (1) Section 1522(a) of the Health and Safety Code provides in part:

Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of, or, after having been arrested and released on bail or on his or her own recognizance, is currently awaiting trial for, a crime other than a minor traffic violation, or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5 subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant, or any other person specified in subdivision (b), has been convicted of, or is awaiting trial for, a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of the fact and the application shall be denied unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the California Department of Social Services with a statement of that fact.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (2) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.
- (D) Any staff person, volunteer, or employee who has contact with the clients.
- (E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.
- (F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

HANDBOOK ENDS HERE

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (b) The following persons are exempt from the requirement to submit fingerprints:
- (1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:
 - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - (B) The individual is providing time-limited specialized clinical care or services.
 - (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a community care facility licensee or an employee of the facility.
 - (2) A third-party repair person, or similar retained contractor, if all of the following apply:
 - (A) The individual is hired for a defined, time-limited job.
 - (B) The individual is not left alone with clients.
 - (C) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
 - (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility, and are in the facility at the request of that client or resident's legal decision maker.
 - (A) The exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

80019 CRIMINAL RECORD CLEARANCE (Continued) 80019

- (4) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with the permission of, the client.
- (A) This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.
- (5) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:
- (A) Members are not left alone with the clients.
- (B) Members do not transport clients off the facility premises.
- (C) The same group does not conduct such activities more often than once a month.
- (6) The following persons in homes certified by licensed Foster Family Agencies:
- (A) Adult friends and family of the certified foster parent, who come into the home to visit for a length of time no longer than one month, provided they are not left alone with the foster children. However, the certified foster parent, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.
- (B) Parents of a foster child's friends when the child is visiting the friend's home and the friend, certified foster parent or both are also present. However, the certified foster parent, acting as a reasonable and prudent parent, may allow the parent of the foster child's friends to act as an appropriate short-term babysitter for the child without the friend being present.
- (C) Individuals who are engaged by any certified foster parent to provide short-term babysitting to the child for periods not to exceed 24 hours. Certified foster parents shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (7) The following persons in small family homes:
- (A) Adult friends and family of the licensee who come into the home to visit, for a length of time no longer than one month, provided they are not left alone with the children.
 - (B) Parents of a child's friends when the child is visiting the friend's home and the friend, foster parent or both are also present.
- (8) The following persons in adult residential facilities unless contraindicated by the client's individualized program plan (IPP), or needs and service plan:
- (A) A spouse, significant other, relative, or close friend of a client., or the attendant or facilitator who is not employed, retained or contracted by the licensee for a client with a developmental disability, as long as the person is visiting the resident or providing direct care and supervision to that client only.
 - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (C) The exemptions in Section 80019(b)(9)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
- (9) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (c) Prior to the Department issuing a license, the applicant, administrator and any adult other than a client, residing in the facility shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code section 1522(a)(4).

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1522(a)(4) provides in part:

An applicant and any other person specified in subdivision (b) of the Health and Safety Code Section 1522 shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) of Health and Safety Code Section 1522 meet all of the conditions for licensure, except the receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b) of Health and Safety Code Section 1522, the Department may issue a license if the applicant and each person described in subdivision (b) of Health and Safety Code Section 1522 has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the Department determines that the licensee or person described in subdivision (b) of Health and Safety Code Section 1522 has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1550. The Department may also suspend the license pending as administrative hearing pursuant to Health and Safety Code Section 1550.5.

HANDBOOK ENDS HERE

- (d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

- (1) A person signing the LIC 508 must:

- (A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 80019(i) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

80019 CRIMINAL RECORD CLEARANCE (Continued) 80019

- (B) If convicted of a crime other than a minor traffic violation, provide information regarding the conviction.
- (2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with the requirements of Section 80019(e), prior to the individual's employment, residence, or initial presence in the community care facility.
- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.
- (e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1522 shall prior to working, residing or volunteering in a licensed facility:
- (1) Submit a valid mailing address at which the individual shall receive communications from the Department.
- (A) An individual who holds a criminal record clearance or exemption shall maintain a current and valid mailing address with the Department and shall notify the Department within ten (10) days of any change in mailing address.
- (2) Obtain a California clearance or a criminal record exemption as required by the Department or
- (3) Request a transfer of a criminal record clearance as specified in Section 80019(f) or
- (4) Request and be approved for a transfer of a criminal record exemption, as specified in Section 80019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:
- (1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
- (2) A copy of the individual's:
- (A) Driver's license, or
- (B) Valid identification card issued by the Department of Motor Vehicles, or
- (C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (3) Any other documentation required by the Department [e.g., Criminal Record Statement - LIC 508, (Rev. 1/03) or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D (Rev. 1/03) which are incorporated by reference, and job description].

HANDBOOK BEGINS HERE

- (4) Health and Safety Code Section 1522(h) provides:
- (A) The California Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

HANDBOOK ENDS HERE

- (g) Violation of Section 80019(e) will result in an immediate assessment of a civil penalties of one hundred dollars (\$100) per violation per day for a maximum of 5 days by the Department.
- (1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.
- (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.
- (h) Violation of Section 80019(e) may result in a denial of the license application or suspension and/or revocation of the license.
- (i) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section 80019.1(a) has not been granted, the Department shall take the following actions:
- (1) For initial applicants, denial of the application.
- (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
- (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (4) For convicted individuals residing in the facility, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.

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80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 80066.
- (1) Documentation shall be available for inspection by the Department.
- (k) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.
- (1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.
- (l) An individual with arrest history described in Health and Safety Code section 1522(e) shall be notified of the following:
- (1) The fact of the investigation into conduct associated with arrest information regarding the subject.
- (2) The specific arrest(s) upon which the investigation is based.
- (3) The date of the arrest(s).
- (4) The arresting agency.
- (5) The disposition of the arrest(s), if available, as indicated on criminal history information received from Department of Justice.
- (6) The subject of the notice shall not work or reside in a licensed facility until the subject has received a criminal record clearance or exemption.
- (7) If the Department obtains evidence through the investigation that the subject may pose a risk to the health and safety of any person who is or may become a client, the Department may deny a criminal record clearance and/or exclude the subject.
- (8) The subject of the notice may provide written information the subject believes is relevant to the investigation and/or shows the subject is qualified to work in a licensed facility.
- (9) The subject of the notice will be notified of the Department's decision regarding whether or not to grant a clearance and of the right to appeal any such decision at that time.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (m) The Department shall, in cases where the subject does not have a conviction, within 5 business days of a decision to deny a criminal record clearance based on an investigation described in subdivision (l) notify the subject of the following:
- (1) The Department has completed its investigation into arrest information.
 - (2) The Department will not grant the subject a criminal record clearance.
 - (3) The decision, if not appealed, will bar the subject from presence in a licensed facility.
 - (4) The arrest information which triggered the investigation, including the date of arrest, charges, and arresting agency.
 - (5) The Department has determined that the subject may pose a risk to the health and safety of a person who is or may become a client.
 - (6) The specific conduct upon which the decision is based.
 - (7) The subject has a right to contest the decision and will receive an Accusation from the Legal Division as well as information about how to request an administrative hearing.
- (n) For initial applications where the subject does not have a conviction, the Accusation described in paragraph (7) of subdivision (m) shall be filed within 40 days of a decision to deny a criminal record clearance.

NOTE: Authority cited: Section 1530 and 1548(e), Health and Safety Code. Reference: Section 11505, Government Code; Sections 1503.5, 1505, 1508, 1522, 1531 1533, 1538, 1540, 1540.1, 1541, 1547, 1548 and 1549, Health and Safety Code.

80019.1 CRIMINAL RECORD EXEMPTION**80019.1**

- (a) The Department will notify a licensee to act immediately to remove from the facility or bar from entering the facility any person described in Sections 80019.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
- (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
 - (2) Any person who has been convicted of a felony;
 - (3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1522(c)(3);
 - (4) Any person who has been convicted of any crime specified below:
 - (A) Battery
 - (B) Shooting at Inhabited Dwelling
 - (C) Corporal Injury on Spouse/Cohabitant
 - (D) Discharging Firearm with Gross Negligence
 - (E) Exhibiting Weapon/Firearm
 - (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death
 - (G) Criminal Threat to Harm or Injure Another Person
 - (H) Cruelty to Animals
 - (I) Willful Harm or Injury to Child; or
 - (5) Any other person ordered to be removed by the Department.
- (b) In addition to the requirements of Section 80019.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

- (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation – Nonexemptible, LIC 300D (Rev. 9/03).
- (c) After a review of the criminal record transcript, the Department may grant an exemption if:
- (1) The applicant/licensee requests an exemption in writing for himself or herself, or
 - (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
 - (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, presence, or residence in a licensed facility.
- (d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 80019.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
- (1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.
 - (2) The notice will list the information that must be submitted to request a criminal record exemption.
 - (3) The information must be submitted within forty five (45) calendar days of the date of the Department's notice.
 - (A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, certified court documents to process the exemption request, pursuant to Section 80019.1(e).
 - (B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or a dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may cease processing the exemption request and close the case.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

- (C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 calendar days of the date of the notice, the Department may deny the exemption request.
- (D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:
 - 1. Chooses not to request the exemption and
 - 2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or
 - 3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.
- (e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
 - (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (5) Granting by the Governor of a full and unconditional pardon.
 - (6) Character references.
 - (A) All character references shall be on a Reference Request form (LIC 301E – Exemptions [Rev. 7/03]).
 - (7) A certificate of rehabilitation from a superior court.
 - (8) Evidence of honesty and truthfulness as revealed in exemption application documents.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (A) Documents include, but are not limited to:
1. A Criminal Record Statement (LIC 508, [Rev. 1/03]) or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D [Rev. 1/03]) and
 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
- (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (f) The Department shall also consider the following factors in evaluating a request for an exemption:
- (1) Facility and type of association.
 - (2) The individual's age at the time the crime was committed.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (g) The Department may deny an exemption request if:
- (1) The licensee and/or the affected individual fails to provide documents requested by the Department, or
 - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.
- (h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
- (1) Exemption denial notices shall specify the reason the exemption was denied.
- (i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- (j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:
- (1) Makes a knowingly false or misleading statement regarding:
 - (A) Material relevant to their application for a criminal record clearance or exemption,
 - (B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or
 - (C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or
 - (2) Is on probation or parole.
 - (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 80019.1(j)(2).
 - (B) Section 80019.1(j)(2) does not apply to Certified Family Homes.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 80019.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 80019.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated or the reports regarding the underlying offense, presents a risk of harm or violence.
- (1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.
 - (2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (6) The individual has not been convicted of a violent felony.
 - (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 80019.1(k)(1) through (5) above shall begin from the last date of conviction(s).
- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 80019.1(k)(1) through (6).
- (m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1522(g)(1) of the Health and Safety Code.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

HANDBOOK BEGINS HERE

Health and Safety Code Section 1522(g)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.
- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
- (6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.
- (7) Penal Code Section 215 – Carjacking.
- (8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 – Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
- (11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
- (12) Penal Code Section 264.1 – Rape in concert.
- (13) Penal Code Section 266 – Enticing a minor into prostitution.
- (14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
- (15) Penal Code Section 266h(b) – Pimping a minor.
- (16) Penal Code Section 266i(b) – Pandering a minor.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD EXEMPTION (Continued)

80019.1

HANDBOOK CONTINUES

- (17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 – Abduction for prostitution.
- (19) Penal Code Section 269 – Aggravated assault of a child.
- (20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**HANDBOOK CONTINUES**

- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Section 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
- (38) Penal Code Section 368 – Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
- (40) Penal Code Section 451(a) or (b) – Arson.
- (41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.
- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
- (43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.
- (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
- (45) Penal Code Sections 664/187 – Any attempted murder.
- (46) * Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
- (47) * Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**HANDBOOK CONTINUES**

- (48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- (49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
- (50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
- (51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.
- (52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

* See Health and Safety Code Section 1522(g)(1) for exception.

HANDBOOK ENDS HERE

- (n) The Department shall consider granting a simplified criminal record exemption only if the individual has the criminal history profile outlined in Sections 80019.1(n)(1) through (4) below:
 - (1) The individual does not have a demonstrated pattern of criminal activity;
 - (2) The individual has one or more convictions arising from a single incident of criminal conduct;
 - (3) Each conviction is a misdemeanor and is for a crime that is nonviolent and does not pose a risk of harm to an individual; and
 - (4) It has been at least five consecutive years since the date of conviction.
- (o) At the Department’s discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.
- (p) If the Department denies or cannot grant a criminal record exemption the Department shall:
 - (1) For initial applicants, deny the application.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
 - (4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 80019.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
- (1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.
 - (2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.
 - (3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 80019.1(q)(1) above, the Department may, according to the provisions in Section 80019.1 et seq., grant or deny the subsequent request for an exemption.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 80019.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.
- (r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:
- (1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (e.g., Criminal Record Statement - LIC 508, [Rev.1/03] or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D [Rev. 1/03] and job description).
- (s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve an exemption transfer:
- (1) The basis on which the Department granted the exemption;
 - (2) The nature and frequency of client contact in the new position;
 - (3) The category of facility where the individual wishes to transfer;
 - (4) The type of clients in the facility where the individual wishes to transfer;

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or
- (6) Whether the exemption meets current exemption laws or regulations.
- (t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.
- (u) At the Department's discretion, an exemption may be rescinded if it is determined that:
 - (1) The exemption was granted in error, or
 - (2) The exemption does not meet current exemption laws or regulations, or
 - (3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.
- (v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:
 - (1) Violations of licensing laws or regulations;
 - (2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;
 - (3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or
 - (4) The individual is convicted of a subsequent crime.
- (w) If the Department rescinds an exemption the Department shall:
 - (1) Notify the licensee and the affected individual in writing; and
 - (2) Initiate an administrative action.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

- (x) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1522 and 1531, Health and Safety Code, and Gresher v. Anderson (2005) 127 Cal. App. 4th 88.

80019.2 CHILD ABUSE CENTRAL INDEX**80019.2**

- (a) Prior to issuing a license to care for children, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1522.1 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s), and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b) and shall approve or deny a facility license, employment, residence or presence in the facility based on the results of the review.
- (1) The applicant shall submit the Child Abuse Central Index check (LIC 198A [3/99] which is incorporated by reference, for state licensed facilities and LIC 198 [4/99] which is incorporated by reference, for county licensed facilities) for all individuals required to be checked, directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(c).
- (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80091(e) or Section 80019.1(f).

80019.2 CHILD ABUSE CENTRAL INDEX (Continued)**80019.2**

- (2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protection agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b), shall complete a Child Abuse Central Index check (LIC 198A [3/99]), prior to employment, residence or initial presence in the facility that cares for children.
- (1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A [3/99]), directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(d).
- (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).
- (2) The Department shall check the CACI pursuant to Penal Code Section 11170(b)(3), and shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1521, 1522, 1522.04, 1531, and 14564, Health and Safety Code.

80020 FIRE CLEARANCE**80020**

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.
- (1) The request for fire clearance shall be made through and maintained by the licensing agency.
 - (2) Prior to the use of secured perimeters, an applicant or licensee for an Adult Residential Facility or Group Home shall meet the fire clearance approval requirements of Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56072(d) and (h).

HANDBOOK BEGINS HERE

California Code of Regulations, Title 17, Section 56072 provides in pertinent part:

- (d) The request for fire clearance for the use of the secured perimeter shall be made through the DSS CCLD. The DSS CCLD approval shall be contingent on a fire clearance being obtained for the specific use of the secured perimeter.
- (h) The DSS CCLD approval is immediately terminated by operation of law upon any suspension or revocation of the fire clearance approval specific to the use of the secured perimeter, or upon the Department of Developmental Services' withdrawal of its approval of the secured perimeter component of the licensee's or applicant's plan of operation.

HANDBOOK ENDS HERE

- (b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such clients:
- (1) Persons 65 years of age and over.
 - (2) Persons who are nonambulatory, as defined in Section 80001n.(1).

HANDBOOK BEGINS HERE

- (A) Persons who use postural supports pursuant to Section 80072(a)(8) are nonambulatory.

HANDBOOK ENDS HERE

- (c) A licensee of an Adult Residential Facility or Group Home utilizing secured perimeters shall conduct fire and earthquake drills pursuant to Health and Safety Code section 1531.15(h).

80020	FIRE CLEARANCE (Continued)	80020
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HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1520, 1528, and 1531 and 1531.15, Health and Safety Code.

80021	WATER SUPPLY CLEARANCE	80021
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- (a) All community care facilities where water for human consumption is from a private source shall meet the following requirements:
 - (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.
 - (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the clients, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect clients.
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Semiannually
25 or more	Initial Licensing	Quarterly

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

80022 PLAN OF OPERATION**80022**

- (a) Each licensee shall have and maintain on file a current, written, definitive plan of operation.
- (b) The plan and related materials shall contain the following:
 - (1) Statement of purposes, and program methods and goals.
 - (2) Statement of admission policies and procedures regarding acceptance of clients.
 - (3) A copy of the admission agreement.
 - (4) Administrative organization, if applicable.
 - (5) Staffing plan, qualifications and duties, if applicable.
 - (6) Plan for inservice education of staff if required by regulations governing the specific facility category.
 - (7) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and a designation of the rooms to be used for nonambulatory clients, if any.
 - (8) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the clients.
 - (A) The sketch shall include the dimensions of all areas which will be used by the clients.
 - (9) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.
 - (10) Transportation arrangements for clients who do not have independent arrangements.
 - (11) Rate setting policy including, but not limited to, policy on refunds.
 - (12) A statement whether or not the licensee will handle the clients' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Sections 80025 and 80026.
 - (13) Consultant and community resources to be utilized by the facility as part of its program.

80022 PLAN OF OPERATION (Continued)

- (14) A statement of the facility's policy concerning family visits and other communications with the client pursuant to Health and Safety Code Section 1512.

HANDBOOK BEGINS HERE

- (A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

HANDBOOK ENDS HERE

- (c) If the licensee of an ARF, group home (GH), small family home (SFH), foster family home (FFH) or certified family home (CFH) certified by a foster family agency (FFA) plans to use delayed egress devices as specified in Health and Safety Code Section 1531.1(d), the plan must meet the requirements of Health and Safety Code Sections 1531.1(g) and (h).

HANDBOOK BEGINS HERE

Health and Safety Code Sections 1531.1(g) and (h) are paraphrased in pertinent part:

- (g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 of the Health and Safety Code.
- (h) The plan shall include, but shall not be limited to, all of the following:
- (1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.
 - (2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.
 - (3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.
 - (4) A description of the facility's emergency evacuation procedures.

HANDBOOK ENDS HERE

80022 PLAN OF OPERATION (Continued)

- (d) If the licensee intends to admit or care for one or more clients who have a restricted health condition specified in Section 80092, the facility policies and a program description shall be included. At a minimum, the information related to those clients and their needs shall specify all of the following:
- (1) The type of restricted health condition that the licensee plans to admit.
 - (2) The licensee's plans for serving that client.
 - (A) Except for an ARF, if the licensee plans to admit or care for one or more clients who have a staph or other serious, communicable infection, the plan must include:
 1. A statement that all staff will receive training in universal precautions within the first 10 days of employment, and before providing care to these clients.
 2. A statement of how the licensee will ensure that the training is obtained, and the name and qualifications of the person or organization that will provide the training.
 - (3) The services that will be provided.
 - (4) Staffing adjustments if needed in order to provide the proposed services.
 - (A) This may include increased staffing, hiring staff with additional or different qualifications, utilizing licensed professionals as consultants, or hiring licensed professionals.
 - (5) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.
- (e) If the licensee intends to admit or care for one or more clients who rely upon others to perform all activities of daily living, the plan of operation must also include a statement that demonstrates the licensee's ability to care for these clients. The evidence or ability may include, but not be limited to:
- (1) The licensee's experience in providing care to these clients.
 - (2) The licensee's experience providing care to a family member with this condition.
 - (3) The licensee's plan to hire staff who have experience providing care to these clients, and documentation of what the staff person's experience has been.
 - (4) Documentation of training the licensee and/or staff have completed specific to the needs of these clients.
 - (5) History of continued placements by a Regional Center.

80022 PLAN OF OPERATION (Continued)

- (f) If the licensee intends to admit and/or specialize in care for one or more clients who have a propensity for behaviors that result in harm to self or others, the facility plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.
- (g) Prior to the use of secured perimeters, the applicant or licensee of a Group Home or Adult Residential Facility shall provide the information required by Health and Safety Code Section 1531.15(f) and California Code of Regulations Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56070, in the plan of operation.

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (f) The licensee shall revise its facility plan of operation. These revisions shall first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Social Services unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:
 - (1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.
 - (2) A description of how the facility will provide training for staff.
 - (3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.
 - (4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.
 - (5) A description of the facility's emergency evacuation procedures.
 - (6) A description of how the facility will comply with applicable health and safety standards.

HANDBOOK CONTINUES

80022 PLAN OF OPERATION (Continued)

HANDBOOK CONTINUES

California Code of Regulations, Title 17, Section 56070 provides in pertinent part:

- (a) In addition to the requirements of Title 22, California Code of Regulations, Section 80022, the plan of operation shall include the following information for the use of secured perimeters:
 - (1) Documentation provided by the regional center of the local need for the facility to utilize a secured perimeter.
 - (2) A component describing the following:
 - (A) An explanation of how interior and exterior space is to be made available on the facility premises to permit consumers to move freely and safely.
 - (B) Staff qualifications and staff training curricula, including participation by the local regional center and the clients' rights advocate providing advocacy services pursuant to Section 4433 of the Welfare and Institutions Code.
 - (C) An explanation of how the facility licensee will ensure the protection of consumers' personal rights, including those specified in Chapter 1 of Division 4.5 of the Welfare and Institutions Code, and any applicable personal rights provided in Titles 17 and 22 of the California Code of Regulations.
 - (D) The licensee's or applicant's plan for managing consumers' lack of hazard awareness and impulse control behavior.
 - (E) Procedures to inform consumers that they have the right to leave the facility and procedures to be followed if a consumer indicates a desire to leave the facility, including the use of redirection or, if the consumer indicates a continued desire to leave following redirection, procedures for staff accompaniment and supervision, and for ensuring adequate staffing for the remaining residents.

HANDBOOK CONTINUES

80022 PLAN OF OPERATION (Continued)

HANDBOOK CONTINUES

- (F) Procedures to be used for conducting and documenting fire and earthquake drills at least once every 3 months that include all facility staff providing the consumer care and supervision.
 - (G) The facility's emergency evacuation procedure. The procedure shall include the protocol for consumers moving through and beyond the secured perimeters when needed for their safety.
 - (H) In the case of an existing facility with delayed egress devices seeking to add secured perimeters, a plan for relocating current facility consumers who have not been determined to meet the admissions and continued placement requirements for residential facilities utilizing secured perimeters as set forth in Section 56073 and Health and Safety Code Section 1531.15.
- (b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:
- (1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.
 - (2) Behavior management techniques of consumers lacking hazard awareness and impulse control.
 - (3) Emergency procedures in the event of a medical emergency or facility disaster.

HANDBOOK ENDS HERE

- (h) Prior to the use of secured perimeters, applicants or licensees of Group Homes and Adult Residential Facilities seeking to utilize secured perimeters pursuant to Health and Safety Code section 1531.15 shall submit the Department of Developmental Service's written approval and the approved component of the applicant's or licensee's plan of operation to the Department as specified in the California Code of Regulations, Title 17, Chapter 3, Subchapter 4, Article 12, Sections 56072(c).

80022 PLAN OF OPERATION (Continued)

HANDBOOK BEGINS HERE

California Code of Regulation, Title 17, Section 56072 provides in pertinent part:

- (c) Upon receiving written approval from the Department of Developmental Services of the proposed secured perimeter component of the facility plan of operation, the licensee or applicant shall submit the written approval and the approved component of the licensee's or applicant's plan of operation to the Department of Social Services, Community Care Licensing Division (DSS CCLD) for approval or denial.

HANDBOOK ENDS HERE

- (i) Prior to the use of secured perimeters, the applicant or licensee of a Group Home or Adult Residential Facility shall obtain the Department's written determination of its approval or denial of the proposed secured perimeter component of the plan of operation as specified in the California Code of Regulations, Title 17, Chapter 3, Subchapter 4, Article 12, 56072(e) and (f).

HANDBOOK BEGINS HERE

California Code of Regulation, Title 17, Section 56072 provides in pertinent part:

- (e) The DSS CCLD shall review the licensee's or applicant's licensing history, if any, as a residential service provider licensed by the DSS CCLD and shall be authorized to require additional documentation if needed to verify the licensee's or applicant's ability to protect the health and safety of consumers.
- (f) The DSS CCLD shall provide to the applicant or licensee a written determination of its approval or denial of the proposed secured perimeter component of the plan of operation.

HANDBOOK ENDS HERE

- (j) Any changes in the plan of operation which affect the services to clients shall be subject to licensing agency approval and shall be reported as specified in Section 80061.
- (k) The facility shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so.

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1507, 1512, 1520, 1531, 1531.1 and 1531.15, Health and Safety Code.

80023 DISASTER AND MASS CASUALTY PLAN**80023**

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the licensing agency and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Contingency plans for action during fires, floods, and earthquakes, including but not limited to the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for clients.
 - (D) Arrangements for supervision of clients during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.
 - (1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.
 - (2) The drills shall be documented and the documentation maintained in the facility for at least one year.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

80024 WAIVERS AND EXCEPTIONS**80024**

- (a) Unless prior written licensing agency approval is received as specified in (b) below, all licensees shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the contact of experimental or demonstration projects under the following circumstances:
- (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility client.
 - (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

HANDBOOK BEGINS HERE

- (3) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

HANDBOOK ENDS HERE

- (4) The licensing agency shall provide written approval or denial of the request.
- (c) Within 30 days of receipt of a request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, of one of the following:
- (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time specified in (2) above shall result in denial of the request.
- (d) Within 30 days of receipt of an acceptable request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1509 and 1531, Health and Safety Code; and Section 15376, Government Code.

80025 BONDING**80025**

- (a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of clients and the maximum amount of cash resources to be safeguarded for all clients or each client in any month.
- (b) All licensees, other than governmental entities, who are entrusted to care for and control clients' cash resources shall file or have on file with the licensing agency, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
\$750 or less	\$1,000
\$751 to \$1,500	\$2,000
\$1,501 to \$2,500	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the licensing agency prior to the licensee safeguarding amounts of clients' cash resources in excess of the current bond.
- (e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection of clients' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the clients' cash resources.
- (f) The provisions of this section shall not apply if the licensee meets the requirements specified in Section 1560 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1560 provides in part:

The provisions of Section 1560 shall not apply if the licensee meets both of the following requirements:

- (A) The licensee operates a community care facility which is licensed only to care for children.
- (B) The licensee safeguards client monies in amounts less than \$50 per client and less than \$500 for all clients in any month.

HANDBOOK ENDS HERE

80025 BONDING (Continued)**80025**

NOTE: Authority cited: Sections 1523, 1524 and 1530, Health and Safety Code. Reference: Sections 1523, 1524, 1560 and 1561, Health and Safety Code.

**80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES****80026**

- (a) A licensee shall not be required to accept for admission or continue to care for any client whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such client's cash resources.
- (b) If such a client is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility who has been designated by the client or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.
- (c) Except where provided for in approved continuing care agreements, no licensee or employee of a licensee shall:
 - (1) accept appointment as a guardian or conservator of the person and/or estate of any client;
 - (2) accept any general or special power of attorney except for Medi-Cal or Medicare claims for any client;
 - (3) become the substitute payee for any payments made to any client.
 - (A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the client.
 - (4) become the joint tenant on any account specified in Section 80026(i) with a resident.

HANDBOOK BEGINS HERE

- (A) Provision for appointment of a small family home licensee as the guardian of the person, or estate, or person and estate of a child is contained in Section 83026.

HANDBOOK ENDS HERE

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 80026

- (d) Cash resources, personal property, and valuables of clients handled by the licensee shall be free from any liability the licensee incurs.
- (e) Cash resources, personal property, and valuables of clients shall be separate and intact, and shall not be commingled with facility funds or petty cash.
- (1) The above requirement shall not prohibit the licensee from providing advances or loans to clients from facility funds.
- (A) Documentation of such transactions shall be maintained in the facility.
- (f) The licensee or employee of a licensee shall not make expenditures from clients' cash resources for any basic services in these regulations, or for any basic services identified in a contract/admission agreement between the client and the licensee.
- (1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the clients.
- (g) The licensee shall not commingle cash resources and valuables of clients with those of another community care facility of a different license number regardless of joint ownership.
- (h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to the following:
- (1) Records of clients' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each client. Supporting receipts for purchases shall be filed in chronological order.
- (A) Receipts for cash provided to any client from his/her account(s) shall include the client's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:
- "(full signature of client) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."
- (B) The store receipt shall constitute the receipt for purchases made for the client from his/her account.
- (C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the client's authorized representative, if any, otherwise to the client.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 80026

- (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of a client, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:
 - (1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.
 - (2) The account title shall clearly note that the account contains client cash resources.
 - (3) The licensee shall provide access to the cash resources upon demand by the client or his/her authorized representative.
 - (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.
- (k) Upon discharge of a client, all cash resources, personal property, and valuables of that client which have been entrusted to the licensee shall be surrendered to the client, or his/her authorized representative, if any.
 - (1) The licensee shall obtain and retain a receipt signed by the client or his/her authorized representative.
- (l) Upon the death of a client, all cash resources, personal property and valuables of that client shall immediately be safeguarded in accordance with the following requirements:
 - (1) All cash resources shall be placed in an account as specified in (i) above.
 - (2) The executor or the administrator of the estate shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 80026

- (3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.
 - (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the client's death to the public administrator of the county as provided in Section 7600.5 of the California Probate Code.
- (m) The following requirements shall be met whenever there is a proposed change of licensee:
- (1) The licensee shall notify the licensing agency of any pending change of licensee, and shall provide the licensing agency an accounting of each client's cash resources, personal property and valuables entrusted to his/her care.
 - (A) Such accounting shall be made on form provided or approved by the licensing agency.
 - (2) Provided the licensing agency approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the licensing agency.
- (n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of \$100, provided by or on behalf of a client to the licensee, administrator or staff.
- (1) The record shall be attached to the account(s) specified in (h) above if the client's cash resources, personal property or valuables have been entrusted to the licensee.
 - (2) Monetary gifts or valuables given by the friends or relatives of a deceased client shall not be subject to the requirement specified in (n) and (n)(1) above.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1531 and 1560, Health and Safety Code; and 20 CFR 416.601.

80027 INITIAL APPLICATION REVIEW**80027**

- (a) Within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant of one of the following:
- (1) The application is complete.
 - (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
 - (A) If the applicant does not submit the required information within the 30 days, the application shall be deemed withdrawn unless either the licensing agency has denied the application or the facility is under construction.
- (b) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.
- (1) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

HANDBOOK BEGINS HERE

- (2) Health and Safety Code Section 1520.3 provides in part::

“(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

“...

HANDBOOK CONTINUES

HANDBOOK CONTINUES

“(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

“(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

“(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

“(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.”

HANDBOOK ENDS HERE

(c) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:

- (1) A fire clearance previously denied, but now approved;
- (2) An Administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or
- (3) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility.

80027 INITIAL APPLICATION REVIEW (Continued)**80027**

- (d) The application review shall not constitute approval of the application.
- (f) The application fees shall be nonrefundable as specified in Section 80036(d).

NOTE: Authority cited: Sections 1524, and 1530, Health and Safety Code. Reference: Sections 1520, 1520.3, 1522.1, 1523.1, and 1524, Health and Safety Code; and Section 15376, Government Code.

80028 CAPACITY DETERMINATION**80028**

- (a) A license shall be issued for a specific capacity.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
 - (1) The fire clearance specified in Section 80020.
 - (2) The licensee's/administrator's ability to comply with applicable law and regulation.
 - (3) Any other household members, including but not limited to persons under guardianship or conservatorship, who reside at the facility and their individual needs.
 - (4) Facilities which accept minor parents and his/her child(ren) shall have such children included in the facility's licensed capacity.
 - (5) Physical features of the facility, including available living space, which are necessary in order to comply with regulations.
 - (6) Number of available staff to meet the care and supervision needs of the clients.
 - (7) Any restrictions pertaining to the specific category of facility.
- (c) The licensing agency shall be authorized to issue a license for fewer clients than is requested when the licensing agency determines that:
 - (1) The licensee's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (d) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 80040.
- (e) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.
 - (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 80042.
- (f) The licensing agency shall be authorized to restrict care to specific individuals.
 - (1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.

80028 CAPACITY DETERMINATION (Continued)**80028**

- (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 80040.
- (g) A Group Home or Adult Residential Facility that utilizes secured perimeters shall comply with Health and Safety Code section 1531.15(a).

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (a) A licensee of an adult residential facility, short-term residential treatment center, or group home for no more than six residents, except for the larger facilities provided for in paragraph (1) of subdivision (k), that is utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code and Section 10554, Welfare and Institutions Code. Reference: Section 11465, Welfare and Institutions Code and Sections 1501, 1523, 1524, 1528, 1531 and 1531.15, Health and Safety Code.

80029 WITHDRAWAL OF APPLICATION**80029**

- (a) An applicant shall have the right to withdraw an application.
- (1) Such withdrawal shall be in writing.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1553 provides in part:

The licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law, or to enter an order denying the license upon any such ground, unless it has consented in writing to such withdrawal.

HANDBOOK ENDS HERE

- (2) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1523.1, 1524, and 1553, Health and Safety Code.

80030**PROVISIONAL LICENSE****80030**

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Sections 80031 or 80040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The facility is in substantial compliance with applicable law and regulation.
 - (2) An urgent need for licensure exists.
 - (3) A corporate applicant's board of directors, executive director and officer are eligible for licensure as specified in Health and Safety Code Section 1520.11(b).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1520.11(b) reads:

"(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.2."

HANDBOOK ENDS HERE

- (b) The capacity of a provisional license shall be limited to the number of clients for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.
- (c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.
- (e) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Sections 1523, 1530 and 1553, Health and Safety Code. Reference: Sections 1520, 1520.11, 1523, 1524, 1525.5, 1528 and 1553, Health and Safety Code.

80031 ISSUANCE OF LICENSE**80031**

- (a) Within 90 days of the date that a completed application, as defined in Section 80001c.(8), has been received, the licensing agency shall give written notice to the applicant of one of the following:
- (1) The application has been approved.
 - (2) The application has been denied.
 - (A) The notice of denial shall include the information specified in Section 80040.
- (b) The licensing agency shall notify the applicant, in writing, of the issuance of the license.
- (1) Issuance of the license itself shall constitute written notification of license approval.
- (c) No limitation shall be imposed on the licensee or printed on the license solely on the basis that a licensee is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (1) Whenever possible, the licensee shall not use corporal punishment on his/her own children in the presence of the child(ren) in placement.

HANDBOOK ENDS HERE

- (d) The licensing agency's completed review of an application for the two years immediately preceding this regulation has been approximately:
- (1) A minimum of 30 days.
 - (2) A median of 90 days.
 - (3) A maximum of 180 days.

NOTE: Authority cited: Sections 1530 and 1553, Health and Safety Code. Reference: Sections 1509, 1520, 1520.5, 1525, 1526, 1531.5 and 1553, Health and Safety Code; and Section 15376, Government Code.

80032	TERMS OF AN INITIAL OR RENEWAL LICENSE	80032
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Repealed by CDSS Manual Letter CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1524, 1525 and 1529, Health and Safety Code.

80033 APPLICATION FOR RENEWAL OF A LICENSE**80033**

Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525 and 1528, Health and Safety Code.

80034 SUBMISSION OF NEW APPLICATION**80034**

- (a) A licensee shall file a new application as required by Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including but not limited to the following:
- (1) Any change in the location of the facility.
 - (2) Any change of licensee, including but not limited to the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.
 - (3) Any change in facility category.
 - (4) Any increase in capacity.
 - (A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.
 - (5) A permanent change in any client from ambulatory to nonambulatory status.

80034 SUBMISSION OF NEW APPLICATION (Continued) 80034

- (b) A new application as required by Section 80018 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 80027(a) if the applicant chooses to continue the application process.
- (c) Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1523.1, and 1531, Health and Safety Code.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE 80035

- (a) Conditions for forfeiture of a community care facility license may be found in Section 1524 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1524 reads in part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220.243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

HANDBOOK CONTINUES

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE (Continued)**80035**

HANDBOOK CONTINUES

- (e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.
- (f) The licensee abandons the facility.

HANDBOOK ENDS HERE

- (1) "Licensee abandons the facility" shall mean either of the following:
 - (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility, or
 - (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
 - 1. The licensing agency requests information of the licensee's whereabouts from the facility's staff if any staff can be contacted; and
 - 2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
 - 3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
 - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE (Continued) 80035

- (2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 80001(e)(4).
- (A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.
- (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.
- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 80030.
- (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 80030 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Sections 1524(e) and 1530, Health and Safety Code. Reference: Sections 1524 and 1524(e), Health and Safety Code.

80036 LICENSING FEES 80036

- (a) An applicant or a licensee shall be charged fees as specified in Health and Safety Code Section 1523.1.

HANDBOOK BEGINS HERE

Health and Safety Code Section 1523.1 provides:

- (a)(1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

HANDBOOK CONTINUES

80036 LICENSING FEES (Continued)

80036

HANDBOOK CONTINUES

Facility Type	Capacity	Fee Schedule	
		Initial Application	Annual
Foster Family and Adoption Agencies		\$ 3,025	\$1,513
Adult Day Programs	1-15	\$ 182	\$ 91
16-30	\$ 303	\$ 152	
31-60	\$ 605	\$ 303	
61-75	\$ 758	\$ 378	
76-90	\$ 908	\$ 454	
91-120	\$ 1,210	\$ 605	
121+	\$ 1,513	\$ 757	
Other Community Care Facilities	1-3	\$ 454	\$ 454
7-15	\$ 1,363	\$ 681	\$ 454
16-30	\$ 1,815	\$ 908	
31-49	\$ 2,270	\$ 1,135	
50-74	\$ 2,725	\$ 1,363	
75-100	\$ 3,180	\$ 1,590	
101-150	\$ 3,634	\$ 1,817	
151-200	\$ 4,237	\$2,119	
201-250	\$ 4,840	\$ 2,420	
251-300	\$ 5,445	\$ 2,723	
301-350	\$ 6,050	\$ 3,025	
351-400	\$ 6,655	\$ 3,328	
401-500	\$ 7,865	\$ 3,933	
501-600	\$ 9,075	\$ 4,538	
601-700	\$10,285	\$ 5,143	
701+	\$12,100	\$ 6,050	

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(2)(A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

fees: (b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any licensee fails to pay the current annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars (\$200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(2) Foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) Foster family agencies shall be annually assessed eighty-eight dollars (\$88) for each home certified by the agency.

(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program. The department shall adjust the fees collected pursuant to this section as necessary to ensure that they do not exceed the costs described in this paragraph.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A facility may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

HANDBOOK ENDS HERE

(b) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code Section 1523.1(b)(1)(C).

(c) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1523.1(b)(1)(A).

(1) To qualify for the relocation fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the facility.

(B) The categorical type of facility shall remain the same when relocating the facility.

(C) The fee shall be by requested capacity at the new location.

(d) The fees shall be nonrefundable.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1523.1, and 1524, Health and Safety Code.

Article 4. ADMINISTRATIVE ACTIONS**80040 DENIAL OF INITIAL LICENSE****80040**

- (a) Except as specified in Section 80030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 80058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) An application for initial licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

HANDBOOK BEGINS HERE

- (A) Section 11165, subdivision (g) of the Penal Code states:

Child abuse means a physical injury which is inflicted by other than accidental means on a child by another person. Child abuse also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). Child abuse also means the neglect of a child or abuse in out-of-home care.

- (B) Section 273(A) of the Penal Code states:

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

HANDBOOK CONTINUES

80040 DENIAL OF INITIAL LICENSE (Continued)**80040**

HANDBOOK CONTINUES

Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(C) Section 273(d) of the Penal Code states:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in the county jail for not more than one year.

(D) Section 1531.5(c) of the Health and Safety Code states:

Child abuse means a situation in which a child suffers from any one or more of the following:

1. Serious physical injury inflicted upon the child by other than accidental means.
2. Harm by reason of intentional neglect or malnutrition or sexual abuse.
3. Going without necessary and basic physical care.
4. Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
5. Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

HANDBOOK ENDS HERE

- (3) An application for licensure shall be denied as specified in Health and Safety Code Sections 1520.11(b), (d) and 1550.

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HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1520.11(b) reads:

“(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.”

- (B) Health and Safety Code Section 1520.11(d) states:

“(d) Prior to instituting administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person’s ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification.”

- (C) Health and Safety Code Section 1550 states:

“The department may deny an application for, or suspend or revoke, any licensee, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.”

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.”

HANDBOOK ENDS HERE

80040 DENIAL OF INITIAL LICENSE (Continued)**80040**

- (b) If the application for an initial licensee is denied, the licensing agency shall mail the applicant a written notice of denial.
- (1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.
- (c) If the application for an initial license is denied, the application processing fee shall be forfeited.
- (d) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Section 1526.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1526 provides in part:

Immediately upon the denial of any application for a license or for a special permit, the licensing agency shall notify the applicant in writing. Within 15 days after the licensing agency mails the notice, the applicant may present his/her written petition for a hearing to the licensing agency. Upon receipt by the licensing agency of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

HANDBOOK ENDS HERE

- (e) Notwithstanding any appeal action, the facility is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1520.11, 1523, 1525, 1526, 1528, 1547 and 1548, Health and Safety Code.

80041	DENIAL OF A RENEWAL LICENSE	80041
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Repealed by CDSS Manual Letter No. CCL 01-07, effective 6/29/01.

NOTE: Authority cited: Sections 1523 and 1530, Health and Safety Code. Reference: Sections 1520, 1523, 1524, 1525, 1526 and 1528, Health and Safety Code.

80042 REVOCATION OR SUSPENSION OF LICENSE**80042**

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Sections 1550 and 1550.5.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1550 specifies the following grounds:

"The department may deny an application for, or suspend or revoke any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee, or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

- (2) Health and Safety Code Section 1550.5 provides in pertinent part:

"The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation.

HANDBOOK CONTINUES

"(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits, unless it is earlier vacated by interim decision of the administrative law judge or a superior court judge. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed."

HANDBOOK ENDS HERE

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80042 REVOCATION OR SUSPENSION OF LICENSE (Continued)**80042**

- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1551 provides in part:

Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code.

- (2) Chapter 5 commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:

(A) When the Director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action; shall concurrently serve the licensee with an accusation; and advise the licensee of the right to a hearing.

(B) The licensee has the right to a hearing prior to the revocation or suspension of a license, except as provided below:

(1) The Director may temporarily suspend any license prior to hearing when in his/her opinion such action is necessary to protect the clients in the facility from any physical or mental abuse or any other substantial threat to health or safety.

(2) When the Director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and concurrently serve the licensee with an accusation.

(C) The licensee shall apply for a hearing under (B) above by sending a written notice of defense to the Director within 15 calendar days of the mailing date of the revocation or suspension notice.

(D) The Director shall, within 15 days of receipt of the notice of defense, request the Office of Administrative Hearings to set the matter for hearing.

- (c) For a revocation and temporary suspension action, the Director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the notice of defense.

HANDBOOK ENDS HERE

80042 REVOCATION OR SUSPENSION OF LICENSE (Continued)**80042**

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1550, 1550.5, and 1551, Health and Safety Code.

80043 LICENSEE/APPLICANT COMPLAINTS**80043**

HANDBOOK BEGINS HERE

- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80044 INSPECTION AUTHORITY OF THE LICENSING AGENCY**80044**

- (a) The licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1526.5, 1533, 1534, 1538 and 1538.7.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1526.5 provides in part:

Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the department shall conduct an inspection of the facility for which the license or special permit was issued.

- (2) Health and Safety Code Section 1533 provides in part:

...any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

- (3) Health and Safety Code Section 1534 provides in part:

"(a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

HANDBOOK CONTINUES

80044

INSPECTION AUTHORITY OF THE LICENSING AGENCY
(Continued)

80044

HANDBOOK CONTINUES

- "(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:
- "(i) When a license is on probation.
 - "(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.
 - "(iii) When an accusation against a licensee is pending.
 - "(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.
 - "(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.
- "(B) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subparagraph (A)....
- "(C) Under no circumstance shall the department visit a community care facility less often than once every five years."
- (4) Health and Safety Code Section 1538(c) provides in part:
- (c) Upon receipt of a complaint,... the state department shall make a preliminary review and,... it shall make an onsite inspection... within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies.

HANDBOOK ENDS HERE

- (b) The licensing agency shall have the authority to interview clients, including children, or staff members, without prior consent.
 - (1) The licensee shall ensure that provisions are made for private interviews with any clients, including children, or any staff members.
- (c) The licensing agency shall have the authority to inspect, audit, and copy client or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements specified in Sections 80066(c) and 80070(d).

80044 INSPECTION AUTHORITY OF THE LICENSING AGENCY 80044
(Continued)

- (1) The licensee shall ensure that provisions are made for the examination of all records relating to the operation of the facility.
- (d) The licensing agency shall have the authority to observe the physical condition of the client, including conditions that could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1526.5, 1531, 1533, 1534, 1538 and 1538.7, Health and Safety Code.

80045 EVALUATION VISITS 80045

- (a) Community care facilities shall be evaluated as specified in Health and Safety Code Sections 1534 and 1548.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1534(a) provides in part:
 - "(a) (1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.
 - "(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:
 - "(i) When a license is on probation.
 - "(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.
 - "(iii) When an accusation against a licensee is pending.
 - "(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.
 - "(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- "(B) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subparagraph (A)...
 - "(C) Under no circumstance shall the department visit a community care facility less often than once every five years.
 - "(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.
 - "(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located."
- (2) Health and Safety Code Section 1548 provides in part:
- "(a) In addition to suspension or revocation of a license issued, ... the department may levy a civil penalty in addition to the penalties of suspension or revocation.
 - "(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day."

HANDBOOK ENDS HERE

- (b) The licensing agency shall have the authority to make any number of other visits to a facility in order to determine compliance with applicable law and regulation.

HANDBOOK BEGINS HERE

- (c) Repealed by Manual Letter No. CCL-91-05, effective 1/20/91.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 1533, 1534, 1538 and 1548, Health and Safety Code.

80046 EXCLUSIONS**80046**

- (a) An individual can be prohibited from serving as a member of a board of directors, executive director, or officer; from being employed or allowing an individual in a licensed facility as specified in Health and Safety Code Sections 1558 and 1558.1.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1558 reads:

"(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

"(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

"(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

"(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

"(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

"(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

"(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

"(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

"(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

"(h)(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

"(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

(2) Health and Safety Code Section 1558.1 reads:

"(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

"(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

"(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

“(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

HANDBOOK CONTINUES

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HANDBOOK CONTINUES

"(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence."

HANDBOOK ENDS HERE

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1558 and 1558.1, Health and Safety Code.

Article 5. ENFORCEMENT PROVISIONS**80051 SERIOUS DEFICIENCIES****80051**

HANDBOOK BEGINS HERE

- (a) The following are examples of regulations that, if not complied with, nearly always result in a serious deficiency.
- (1) Section 80010 relating to limitations on the capacity or ambulatory status of facility clients.
 - (2) Section 80019 relating to criminal record clearance.
 - (3) Section 80020 relating to fire clearance.
 - (4) Section 80021 relating to water supply.
 - (5) Section 80072 relating to client rights.
 - (6) Section 80073 relating to telephone service.
 - (7) Section 80075(h) through (j) relating to storing and dispensing medications.
 - (8) Section 80076 relating to food storage, preparation and service.
 - (9) Section 80087 relating to safety of client accommodations.
 - (10) Section 80088(e)(1), (2), and (3) relating to hot water temperature and toilet facilities.
 - (11) Section 80088(f) relating to storage and disposal of solid wastes.
 - (12) Section 80094.5 relating to a licensee forwarding to the Department a client's request for an IDT review of a health condition relocation order.
 - (13) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 80001s.(1).

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1531 and 1534, Health and Safety Code.

80052 DEFICIENCIES IN COMPLIANCE**80052**

- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the facility shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide notice of deficiency to the licensee by one of the following:
 - (1) Personal delivery to the licensee, at the completion of the visit.
 - (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
- (d) The notice of deficiency shall be in writing and shall include the following:
 - (1) Citation of the statute or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.

HANDBOOK BEGINS HERE

- (A) Section 1522(c) of the Health and Safety Code provides in part:

Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the California Department of Social Services for processing.

HANDBOOK ENDS HERE

80052 DEFICIENCIES IN COMPLIANCE (Continued)**80052**

- (4) A date by which each deficiency shall be corrected.
 - (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
 - 1. The potential hazard presented by the deficiency.
 - 2. The number of clients affected.
 - 3. The availability of equipment or personnel necessary to correct the deficiency.
 - 4. The estimated time necessary for delivery, and for any installation, of necessary equipment.
 - (B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.
 - (C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions which must be taken within 30 calendar days to begin correction.
 - (D) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 80054(c), (d) and (e).
- (5) The amount of penalty being assessed and the date the penalty begins.
- (6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Section 1534 and 1548, Health and Safety Code.

80053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE 80053

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
- (1) At a minimum, a follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
- (2) No penalty shall be assessed unless a follow-up visit is conducted as specified in (a) and (a)(1) above.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.
- (c) A notice of penalty shall be in writing and shall include:
- (1) The amount of penalty assessed, and the date the payment is due.
- (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed pursuant to Sections 80054(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 1533, 1534 and 1548, Health and Safety Code.

80054 PENALTIES 80054

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) Notwithstanding Section 80054(a) above, an immediate penalty of \$100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1522(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 80019(e) prior to working, residing or volunteering in the facility.
- (1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.
- (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.

80054 PENALTIES (Continued)**80054**

- (3) Progressive civil penalties specified in Sections 80054(d) and (e) below shall not apply.
- (c) Notwithstanding Section 80054(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following:
 - (1) Sickness, injury or death of a client has occurred as a result of the deficiency.
- (d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty assessment of \$150 per cited violation shall be assessed for one day only. Thereafter a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (e) When a facility, that was cited for a deficiency subject to the immediate penalty assessment in Section 80054(d) above, violates the same regulation subsection within a 12-month period of the last violation, the facility shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$150 per day, per cited violation, shall be assessed until the deficiency is corrected.
 - (1) For purposes of Sections 80054(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

HANDBOOK BEGINS HERE

An example of the same regulation subsections are Sections 87218(a)(2) and 87218(a)(5). Sections 87218(a) and 87218(b) are not the same regulation subsection.

HANDBOOK ENDS HERE

- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
 - (1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.

80054	PENALTIES (Continued)	80054
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- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.
- (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (h) If necessary, a site visit shall be made immediately or within five working days to confirm deficiency has been corrected.
- (i) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Sections 1530 and 1548, Health and Safety Code. Reference: Section 1522, 1534 and 1548, Health and Safety Code.

80055	ADMINISTRATIVE REVIEW	80055
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- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice(s).
 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).
- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

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80055.1 DENIAL OR REVOCATION OF LICENSE FOR FAILURE TO PAY CIVIL PENALTIES**80055.1**

- (a) The licensee shall be responsible for paying civil penalties.
 - (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
 - (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
 - (2) The Department shall have the authority to approve the form of payment.
 - (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1551.

NOTE: Authority cited: Sections 1530 and 1548, Health and Safety Code. Reference: Sections 1522, 1534, 1548 and 1551, Health and Safety Code.

80056 EXEMPTION FROM CIVIL PENALTIES**80056**

- (a) Civil penalties shall not be assessed against any governmental entity, including a state, or city, holding a community care facility license.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

80058 UNLICENSED FACILITY PENALTIES**80058**

- (a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 80006, and continues to operate.
 - (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 80018.
 - (B) The completed application shall be deemed to be submitted when received by the licensing agency.
 - (2) Unlicensed operation continues after denial of the initial application.
 - (A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.
 - (A) The \$200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 80058(a)(1)(A) and (B).
 - (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

80058	UNLICENSED FACILITY PENALTIES (Continued)	80058
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- (A) The \$200 per day penalty shall continue until the operator ceases operation.
- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.
- (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
- (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

HANDBOOK BEGINS HERE

- (f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care facility without a license.
- (1) Section 1508 of the Health and Safety Code provides in part:
- No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without a current valid license therefor as provided in this chapter.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1508, 1520, 1533, 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

80059 UNLICENSED FACILITY ADMINISTRATIVE APPEAL**80059**

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
 - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority Cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1508, 1547, and 1548, Health and Safety Code.

Article 6. CONTINUING REQUIREMENTS**80061 REPORTING REQUIREMENTS****80061**

- (a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department, including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the licensing agency within seven days following the occurrence of such event.
- (1) Events reported shall include the following:
- (A) Death of any client from any cause.
 - (B) In a residential facility, death of any client as a result or injury, abuse, or other than natural causes, regardless of where the death occurred. This includes a death that occurred outside the facility such as at a day program, workshop, job, hospital, en route to or from a hospital, or visiting away from the facility.
 - 1. The licensee shall obtain a certified copy of the client's death certificate as soon as it is available, maintain it in the client's file, and shall send a copy to the Department as soon as it is obtained.
 - 2. For Regional Center clients, the licensee shall also send a copy of the death certificate to the Regional Center.
 - (C) In an adult CCF, the use of an Automated External Defibrillator.
 - (D) Any injury to any client which requires medical treatment.
 - (E) Any unusual incident or client absence which threatens the physical or emotional health or safety of any client.
 - 1. For community care facilities that serve children, a pregnancy or termination of a pregnancy does not, in and of itself, constitute an unusual incident unless it meets the criteria specified for mandated reporting in Penal Code section 11166 (a).
 - (F) Any suspected psychological abuse of any client.

80061 REPORTING REQUIREMENTS (Continued)**80061**

- (G) Any suspected physical abuse of any minor.
1. For community care facilities that serve children, a pregnancy or termination of a pregnancy does not, in and of itself, constitute physical abuse of a minor unless it meets the criteria specified for mandated reporting in Penal Code section 11166 (a).
- (H) Epidemic outbreaks.
- (I) Poisonings.
- (J) Catastrophes.
- (K) Fires or explosions which occur in or on the premises.
- (2) Information provided shall include the following:
- (A) Client's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.
 - (D) Disposition of the case.
- (c) Any suspected physical abuse that results in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two (2) hours as required by Welfare and Institutions Code Section 15630(b)(1).

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that they have experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
- (i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

Penal Code section 11166 provides in pertinent part:

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

HANDBOOK ENDS HERE

- (d) Any suspected physical abuse that does not result in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within twenty-four (24) hours as required by Welfare and Institutions Code Section 15630(b)(1).

80061 REPORTING REQUIREMENTS (Continued)**80061****HANDBOOK BEGINS HERE**

Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that they have experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.

- (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
- (i) . . .
 - (ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

HANDBOOK ENDS HERE

- (e) The items below shall be reported to the licensing agency within 10 working days following the occurrence.
- (1) The organizational changes specified in Section 80034(a)(2).
 - (2) Any change in the licensee's or applicant's mailing address.
 - (3) Any change of the chief executive officer of a corporation or association.
 - (A) Such notification shall include the new chief executive officer's name and address.
 - (B) Fingerprints shall be submitted as specified in Section 80019(d).

80061 REPORTING REQUIREMENTS (Continued)**80061**

- (4) Any changes in the plan of operation which affect the services to clients.
- (f) The items specified in (b)(1)(A) through (H) above shall also be reported to the client's authorized representative, if any.
- (g) The items specified in (b)(1)(E) through (G) above shall also be reported to the local health officer when appropriate pursuant to Title 17, California Code of Regulations, sections 2500 and 2502.

HANDBOOK BEGINS HERE

(1) Title 17, California Code of Regulations, Section 2500 requires:

(b) It shall be the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the diseases or conditions listed in subsection (j) of this section, to report to the local health authority officer for the jurisdiction where the patient resides as required in subsection (h) of this section. Where no health care provider is in attendance, any individual having knowledge of a person who is suspected to be suffering from one of the diseases or conditions listed in subsection (j) of this section may make such a report to the local health officer for the jurisdiction where the patient resides.

HANDBOOK ENDS HERE

80061 REPORTING REQUIREMENTS (Continued)**80061**

- (h) The item specified in (b)(1)(H) shall also be reported immediately to the local fire authority. In areas not having organized fire services a report shall be made to the State Fire Marshal within 24 hours.
- (i) Licensees shall send copies of all substantiated complaints to board members of the licensed facility, parents, legal guardians, conservators, client rights advocates or placement agencies, as designated in each client's placement agreement in accordance with Health and Safety Code Section 1538.5.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1538. 5 reads in part:

"(a)(1) Not less than 30 days prior to the anniversary of the effective date of a residential community care facility except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, client's rights advocate, or placement agency, as designated in each resident's placement agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

"(2) The department may transmit copies of the inspection reports referred to in paragraph (1) concerning a group home or short-term residential therapeutic program, as defined by regulations of the department, to the county in which the group home or short-term residential therapeutic program is located, if requested by that county.

"(3) A group home or short-term residential therapeutic program shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

"(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

"(1) In the case of any substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days, from the date the facility receives the licensing report from the state department to comply.

"(2) In the case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

"(c) Each residential facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

"(d) If residential facility to which this section applies fails to comply with the provisions of this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with this article and the related rules and regulations.

"(e) Not less than 30 days prior to the anniversary of the effective date of the license of any group home or short-term residential therapeutic program, as defined by regulations of the department, at the request of the county in which the group home or short-term residential therapeutic program is located, a group home or short-term residential therapeutic program shall transmit to the county a copy of all incident reports prepared by the group home or short-term residential therapeutic program and transmitted to a placement agency, as described in subdivision (f) of Section 1536.1, in a county other than the county in which the group home or short-term residential therapeutic program is located that involved a response by local law enforcement or emergency services personnel, including runaway incidents. The county shall designate an official for the receipt of the incident reports and shall notify the group home or short-term residential therapeutic program of the designation. Prior to transmitting copies of incident reports to the county, the group home or short-term residential therapeutic program shall redact the name of any child referenced in the incident reports, and other identifying information regarding any child referenced in the reports. The county may review the incident reports to ensure that the group home or short-term residential therapeutic program has taken appropriate action to ensure the health and safety of the residents of the facility.

HANDBOOK CONTINUES

80061 REPORTING REQUIREMENTS (Continued)**80061**

HANDBOOK CONTINUES

"(f) The department shall notify the residential community care facility of its obligation when it is required to comply with this section."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1538.5, Health and Safety Code. Reference: Sections 1501, 1507, 1531, 1538.5 and 1797.196, Health and Safety Code; Section 11166, Penal Code; and Section 15630, Welfare and Institutions Code.

80062 FINANCES**80062**

- (a) The licensee shall meet the following financial requirements:
- (1) Development and maintenance of a financial plan which ensures resources necessary meet operating costs for care and supervision of clients.
 - (2) Maintenance of financial records.
 - (3) Submission of financial reports as required upon the written request of the department or licensing agency.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The licensing agency shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

80063	ACCOUNTABILITY	80063
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- (a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility, and for the establishment of policies concerning its operation.
- (1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80064	ADMINISTRATOR-QUALIFICATIONS AND DUTIES	80064
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- (a) The administrator shall have the following qualifications:
- (1) Attainment of at least 18 years of age.
- (2) Knowledge of the requirements for providing the type of care and supervision needed by clients, including ability to communicate with such clients.
- (3) Knowledge of and ability to comply with applicable law and regulation.
- (4) Ability to maintain or supervise the maintenance of financial and other records.
- (5) Ability to direct the work of others, when applicable.
- (6) Ability to establish the facility's policy, program and budget.
- (7) Ability to recruit, employ, train, and evaluate qualified staff, and to terminate employment of staff, if applicable to the facility.
- (b) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.
- (c) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section, and in applicable regulations in Chapters 2 through 7.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80065 PERSONNEL REQUIREMENTS**80065**

- (a) Facility personnel shall be competent to provide the services necessary to meet individual client needs and shall, at all times, be employed in numbers necessary to meet such needs.

HANDBOOK BEGINS HERE

- (1) Section 1522(b)(2) of the Health and Safety Code provides:

Any person, other than a client, residing in the facility.

- (2) Section 1522(c)(3) of the Health and Safety Code provides in part:

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision.

HANDBOOK ENDS HERE

- (b) The licensing agency shall have the authority to require any licensee to provide additional staff whenever the licensing agency determines and documents that additional staff are required for the provision of services necessary to meet client needs. The licensee shall be informed in writing of the reasons for the licensing agency's determination. The following factors shall be taken into consideration in determining the need for additional staff.

- (1) Needs of the particular clients.
- (2) Extent of the services provided by the facility.
- (3) Physical arrangements of the particular facility.
- (4) Existence of a state of emergency or disaster.

- (c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility staff plan.

- (d) The following facility personnel staff shall be at least 18 years of age:

- (1) Persons who supervise employees and/or volunteers.
- (2) Persons, including volunteers, who provide any element of care and supervision to clients.

80065 PERSONNEL REQUIREMENTS (Continued)

- (e) The licensee shall provide for direct supervision of clients during participation in or presence at potentially dangerous activities or areas in the facility.
 - (1) An adult other than a client shall be present at all times while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim.
 - (2) Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate.
- (f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.
 - (1) Principles of nutrition, food preparation and storage and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Provision of client care and supervision, including communication.
 - (4) Assistance with prescribed medications which are self-administered.
 - (5) Recognition of early signs of illness and the need for professional assistance.
 - (6) Availability of community services and resources.
 - (7) The licensee of a Group Home or Adult Residential Facility that has been approved by the Department to utilize secured perimeters shall meet the staff training requirements as established by the Health and Safety Code section 1531.15(e) and the California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56070(b).

80065 PERSONNEL REQUIREMENTS (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (e) The licensee shall provide staff training regarding the use and operation of the secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

California Code of Regulations, Title 17, Section 56070 provides in pertinent part:

- (b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:
 - (1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.
 - (2) Behavior management techniques of consumers lacking hazard awareness and impulse control.
 - (3) Emergency procedures in the event of a medical emergency or facility disaster.

HANDBOOK ENDS HERE

- (g) All personnel, including the licensee, administrator and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
 - (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.
 - (2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the person, clients or other staff members.

80065 PERSONNEL REQUIREMENTS (Continued) 80065

- (3) The good physical health of each volunteer who works in the facility shall be verified by:
- (A) A statement signed by each volunteer affirming that he/she is in good health.
 - (B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.
- (h) Personnel with evidence of physical illness that poses a threat to the health and safety of clients shall be relieved of their duties.
- (i) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:
- (1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or
 - (2) Request a transfer of a criminal record clearance as specified in Section 80019(f) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 80019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (j) Clients shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in household duties and other tasks suited to the client's needs and abilities.
- (1) Such duties and tasks shall be specified in the client's needs and services plan as specified in Chapters 4, 5 and 6.
- (k) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.
- (l) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation or prejudice.
- (m) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 80072 and/or any of the personal rights provisions of Chapters 3 through 7.
- (n) A licensee of a Group Home or Adult Residential Facility that has been approved by the Department to utilize secured perimeters shall comply with Health and Safety Code section 1531.15(g) and California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56071(a).

80065 PERSONNEL REQUIREMENTS (Continued)**80065**

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (g) Secured perimeters shall not substitute for adequate staff.

California Code of Regulations, Title 17, section 56071 provides in pertinent part:

- (a) The use of secured perimeters shall not substitute for adequate staff in sufficient numbers to meet the care and supervision needs of all consumers, including additional staffing as determined to be necessary by a consumer's regional center planning team.

HANDBOOK ENDS HERE

- (o) A Group Home or Adult Residential Facility licensee that utilizes secured perimeters shall ensure that each direct care staff is trained in Emergency Intervention as required by Section 84365 for Group Homes and Section 85300 for Adult Residential Facilities.

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1522, 1531, 1531.15 and 1562, Health and Safety Code; and Section 42001, Vehicle Code.

80066 PERSONNEL RECORDS**80066**

- (a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:
- (1) Employee's full name.
 - (2) Driver's license number if the employee is to transport clients.
 - (3) Date of employment.
 - (4) A statement signed by the employee that he/she is at least 18 years of age.
 - (5) Home address and phone number.
 - (6) Documentation of the educational background, training and/or experience specified in licensing regulations for the type of facility in which the employee works.
 - (7) Past experience, including types of employment and former employers.
 - (8) Duties of the employee.
 - (9) Termination date if no longer employed by the facility.
 - (10) A health screening as specified in Section 80065(g).
 - (11) Tuberculosis test documents as specified in Section 80065(g).
 - (12) For employees that are required to be fingerprinted pursuant to Section 80019:
 - (A) A signed statement regarding their criminal record history as required by Section 80019(d).

80066 PERSONNEL RECORDS (Continued) 80066

- (B) Documentation of either a criminal record clearance or exemption as required by Section 80019(e).
1. For Certified Administrators, a copy of their current and valid Administrator Certification meets this requirement.
- (b) Personnel records shall be maintained for all volunteers and shall contain the following:
- (1) A health statement as specified in Section 80065(g)(3).
 - (2) Tuberculosis test documents as specified in Section 80065(g).
 - (3) For volunteers that are required to be fingerprinted pursuant to Section 80019:
 - (A) A signed statement regarding their criminal record history as required by Section 80019(d).
 - (B) Documentation of either a criminal record clearance or exemption as required by Section 80019(e).
- (c) All personnel records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. removal of records shall be subject to the following requirements:
- (1) Licensing representatives shall not remove any current emergency and health-related information for current personnel unless the same information is otherwise readily available in another document or format.
 - (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (d) All personnel records shall be retained for at least three years following termination of employment.
- (e) All personnel records shall be maintained at the facility site.
- (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility site as specified in Section 80066(c).
- (f) In all cases, personnel records shall document the hours actually worked.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80068 ADMISSION AGREEMENTS**80068**

- (a) The licensee shall complete an individual written admission agreement with each client and the client's authorized representative, if any.
- (1) Prior to admitting a developmentally disabled adult recommended by a Regional Center, the licensee of an ARF shall obtain from the Regional Center written certification which states that there was no objection to the placement by any persons specified in Welfare and Institutions Code Section 4803.
- (2) The licensee shall maintain a copy of the certification in the client's file.

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code, Section 4803, is paraphrased in pertinent part:

If a Regional Center recommends that a person be admitted to a community care facility as a developmentally disabled resident, the Regional Center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to a community care facility, nor the parent of a minor or conservator of an adult, nor the person or agency responsible for protecting the rights of developmentally disabled persons (including Area Boards or clients' rights advocates assigned to the Regional Centers) has made an objection to the admission to the person making the recommendation. The Regional Center shall transmit the certificate or copy to the community care facility.

A community care facility shall not admit any adult as a developmentally disabled patient on recommendation of a Regional Center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Welfare and Institutions Code Section 4700.

HANDBOOK ENDS HERE

- (b) The licensee shall complete and maintain in the client's file a Telecommunications Device Notification form (LIC 9158, 5/97) for each client whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled.

80068 **ADMISSION AGREEMENTS** (Continued)**80068**

- (c) Admission agreements must specify the following:
- (1) Basic services.
 - (2) Available optional services.
 - (3) Payment provisions, including the following:
 - (A) Basic rate.
 - (B) Optional services rates.
 - (C) Payor.
 - (D) Due date.
 - (E) Frequency of payment.
 - (4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the client or his/her authorized representative of any basic rate change.
 - (A) It shall be acceptable for agreements involving clients whose care is funded at government-prescribed rates to specify that the effective date of a government rate change shall be considered the effective date for basic service rate modifications and that no prior notice is necessary.
 - (5) Refund conditions.
 - (6) Right of the licensing agency to perform the duties authorized in Section 80044(b) and (c).
 - (7) Conditions under which the agreement may be terminated.
 - (A) The client's refusal to cooperate with the licensee's implementation of his/her Restricted Health Condition Care Plan as specified in Section 80092.2, if any, and his/her Needs and Services Plan, as specified in Section 80068.2 or 80068.3, must be one of the conditions.

80068**ADMISSION AGREEMENTS (Continued)****80068**

- (8) The facility's policy concerning family visits and other communication with clients, pursuant to Health and Safety Code Section 1512.

HANDBOOK BEGINS HERE

- (A) Section 1512 of the Health and Safety Code provides that:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

HANDBOOK ENDS HERE

- (9) If the client in an ARF has a restricted health condition, as specified in Section 80092, the admission agreement must contain a statement that he/she agrees to comply with the Restricted Health Condition Care Plan developed for him/her as specified in Section 80092.2.
- (10) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.
- (d) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall ensure that the client's admission agreements contain written consent agreeing to the placement when the client has not been court ordered to be placed in a facility with secured perimeters.
- (1) Written consent shall be signed by a non-conserved resident, 18 or older, or, as appropriate, the resident's conservator or other person with legal authority and shall contain the following:
- (A) A description of the location and manner in which the perimeter will be secured.
- (B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.
- (C) A statement that consent may be withdrawn at any time, pursuant to Section 80072(c).
- (e) Such agreements shall be dated and signed, acknowledging the contents of the document, by the client and the client's authorized representative and the licensee or the licensee's designated representative, no later than seven calendar days following admission.
- (f) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.

80068 **ADMISSION AGREEMENTS (Continued)****80068**

- (g) The licensee shall retain in the client's file the original of the initial admission agreement and all subsequent modifications.
 - (1) The licensee shall provide a copy of the current admission agreement to the client and the client's authorized representative, if any.
- (h) The licensee shall comply with all terms and conditions set forth in the admission agreement.
- (i) The admission agreement shall be automatically terminated by the death of the client. No liability or debt shall accrue after the date of death.

HANDBOOK BEGINS HERE

- (1) This does not preclude contractual arrangements such as life care contracts or payments ordered by a court of competent jurisdiction.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1512, 1524.7, and 1531, Health and Safety Code; and Section 4803, Welfare and Institutions Code.

80068.2 **NEEDS AND SERVICES PLAN****80068.2**

- (a) The licensee shall complete a Needs and Services Plan for each client as required in Sections 81068.2, 82068.2, 82568.2, or 85068.2.
- (b) If the client has an existing needs appraisal or individual program plan (IPP) completed by a placement agency, or a consultant for the placement agency, the Department may consider the plan to meet the requirements of this section provided that:
 - (1) The needs appraisal or IPP is not more than one year old.
 - (2) The licensee and the placement agency agree that the client's physical, mental and emotional status has not significantly changed since the assessment.
- (c) The written Needs and Services Plan specified in Section 80068.2(a), shall be maintained in the client's file.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

80068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN**80068.3**

- (a) The licensee shall ensure that each client's written Needs and Services Plan is updated as often as necessary to assure its accuracy, but at least annually. These modifications shall be maintained in the client's file.
- (b) If the licensee determines that the client's needs cannot be met, the licensee shall inform the client, and his/her authorized representative, if any, and the placement agency, if any, and request that the client relocate to a facility that can provide the needed services.
 - (1) If the client refuses to relocate, the licensee may evict the client in accordance with Section 80068.5.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

80068.5 EVICTION PROCEDURES**80068.5**

- (a) Except for children's residential facilities, the licensee may, upon 30 days written notice to the client, evict the client only for one or more of the following reasons:
 - (1) Nonpayment of the rate for basic services within ten days of the due date.
 - (2) Failure of the client to comply with state or local law after receiving written notice of the alleged violation.
 - (3) Failure of the client to comply with general facility policies that are documented in the facility admission agreement, and are for the purpose of making it possible for clients to live together.
 - (4) Inability to meet the client's needs.
 - (A) A Needs and Services Plan modification must have been performed, as specified in Section 80068.3(a), which determined that the client's needs cannot be met by the facility and the client has been given the opportunity to relocate as specified in Section 80068.3(b).
 - (5) The client refuses to comply with his/her Restricted Health Condition Care Plan, if any, as specified in Section 80092.2.

80068.5 EVICTION PROCEDURES
(Continued)**80068.5**

- (6) Change of use of the facility.
- (b) The licensee shall obtain prior written approval from the Department to evict the client upon three (3) days written notice to quit and upon a finding of good cause.
 - (1) Good cause exists if the client engages in behavior that threatens the mental and/or physical health or safety of himself/herself or others in the facility.
 - (2) Failure of the Department to reply to the request for approval within two working days shall be considered approval.
- (c) The notice to quit shall state the reasons for the eviction, with specific facts supporting the reason for the eviction including the date, place, witnesses, if any, and circumstances.
- (d) When serving the client with either a 30-day or a 3-day notice to quit, the licensee shall, on the same day, overnight mail or fax a copy of the notice to the client's authorized representative, if any or responsible person if there is no authorized representative.
- (e) The licensee shall mail or fax to the Department a copy of the 30-day written notice in accordance with (a) above within five days of giving the notice to the client.
- (f) Upon request of a client or his/her authorized representative or responsible person, the Department will investigate the reasons for the eviction pursuant to the provisions of Sections 1538 and 1569.35 of the Health and Safety Code.
- (g) Nothing in this section precludes the licensee or client from invoking any other available remedy.

HANDBOOK BEGINS HERE

- (1) Such remedies include voluntary relocation, relocation by the client's authorized representative, hospitalization for mental or physical conditions, and arrest.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1531, and 1770, et seq., Health and Safety Code.

80069 CLIENT MEDICAL ASSESSMENTS**80069**

- (a) Except for licensees of ARFs, prior to or within 30 calendar days following the acceptance of a client, the licensee shall obtain a written medical assessment of the client, as specified in Section 80069(c), which enables the licensee to determine his/her ability to provide necessary health related services to the client. The assessment shall be used in developing the Needs and Services Plan.
- (1) The assessment shall be performed by a licensed physician or designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.
- (b) In ARFs, prior to accepting a client into care, the licensee shall obtain and keep on file documentation of the client's medical assessment.
- (1) Such assessment shall be performed by a licensed physician, or designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.
- (c) The medical assessment shall include the following:
- (1) The results of an examination for communicable tuberculosis and other contagious/infectious diseases.
- (2) Identification of the client's special problems and needs.
- (3) Identification of any prescribed medications being taken by the client.
- (4) A determination of the client's ambulatory status, as defined by Section 80001(n)(2).
- (5) Identification of physical restrictions, including any medically necessary diet restrictions, to determine the client's capacity to participate in the licensee's program.
- (d) In addition to Section 80069(c), the medical assessment for clients in ARFs shall include the following:
- (1) A physical examination of the person, indicating the physician's primary diagnosis and secondary diagnosis, if any.
- (2) Identification of other medical conditions, including those described in Section 80092 which are restricted and Section 80091, which would preclude care of the person by the licensee.
- (3) Documentation of prior medical services and history.
- (4) Current medical status including, but not limited to, height, weight, and blood pressure.
- (5) Identification of the client's needs as a result of any medical information contained in the report.

80069 CLIENT MEDICAL ASSESSMENTS
(Continued)**80069**

- (e) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a client's placement.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, and 1531, Health and Safety Code.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT**80069.2**

- (a) In order to determine whether the facility's program meets a client's services needs, the licensee of an ARF shall assess the client's need for personal assistance and care by determining his/her functional capabilities. The assessment shall be in writing, shall be used in developing the Needs and Service Plan, and shall include, but not be limited to the following activities:
- (1) Bathing:
 - (A) Does not bathe or shower self.
 - (B) Performs some bathing or showering tasks.
 - (C) Bathes or showers self independently.
 - (2) Dressing:
 - (A) Does not dress self.
 - (B) Puts on some clothing by self.
 - (C) Dresses self completely.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT
(Continued)**80069.2**

- (3) Grooming:
 - (A) Does not tend to own personal hygiene.
 - (B) Tends to some personal hygiene tasks.
 - (C) Tends to own personal hygiene.
- (4) Toileting:
 - (A) Not toilet trained.
 - (B) Does not toilet by self.
 - (C) Goes to toilet by self.
- (5) Transferring:
 - (A) Unable to move in and out of a bed or chair.
 - (B) Needs assistance to transfer.
 - (C) Is able to move in and out of a bed or chair.
- (6) Repositioning:
 - (A) Unable to reposition.
 - (B) Repositions from side to side.
 - (C) Repositions from front to back and back to front.
- (7) Wheelchair:
 - (A) Unable to sit without support.
 - (B) Sits without support.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT
(Continued)**80069.2**

- (C) Needs assistance moving wheelchair.
 - (D) Moves wheelchair independently.
 - (E) Does not use wheelchair.
- (8) Continence:
- (A) No bowel and/or bladder control.
 - (B) Some bowel and/or bladder control.
 - (C) Use of assistive devices, such as a catheter.
 - (D) Complete bowel and/or bladder control.
- (9) Eating:
- (A) Does not feed self.
 - (B) Feeds self with assistance from another person.
 - (C) Feeds self completely.
- (b) Assessment of the client's need for assistance shall include consideration of his/her physical condition affecting participation in his/her own care, including:
- (1) Vision:
- (A) Severe/ profound impairment.
 - (B) Mild/moderate impairment.
 - (C) No vision impairment.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT
(Continued)**80069.2**

- (2) Hearing:
 - (A) Severe/ profound loss.
 - (B) Mild/moderate loss.
 - (C) No hearing loss.
 - (3) Communication:
 - (A) Does not express nonverbally.
 - (B) Does not express verbally.
 - (C) Expresses by sounds or movements.
 - (D) Expresses self well, both verbally and nonverbally.
 - (4) Walking:
 - (A) Does not walk.
 - (B) Walks with support.
 - (C) Walks well alone.
 - (5) Medical history and conditions.
 - (6) Need for prescribed and non-prescribed medications.
- (c) Assessment of the client's need for assistance and care shall include consideration of the following:
- (1) Mental and emotional conditions.
 - (A) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

80069.2 FUNCTIONAL CAPABILITIES ASSESSMENT
(Continued)**80069.2**

- (2) Socialization and cognitive status.
- (3) Propensity for behaviors that result in harm to self or others and that require supervision.
- (4) Ability to manage his/her own finances and cash resources.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1250, 1501, 1502, 1507, 1530, 1531, 1557.5, Health and Safety Code.

80069.3 MENTAL HEALTH ASSESSMENT**80069.3**

Renumbered to Group Homes, Section 85069.3 by CCL-98-09, effective 10/1/98.

80070 CLIENT RECORDS**80070**

- (a) The licensee shall ensure that a separate, complete, and current record is maintained in the facility for each client.
- (b) Each record must contain information including, but not limited to, the following:
 - (1) Name of client.
 - (2) Birthdate.
 - (3) Sex.
 - (4) Date of admission.
 - (5) Names, addresses, and telephone numbers of the authorized representative.
 - (6) A signed copy of the admission agreement specified in Section 80068.
 - (7) Name, address and telephone number of physician and dentist, and other medical and mental health providers, if any.
 - (8) Medical assessment, including ambulatory status, as specified in Section 80069.
 - (9) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility provided assistance to the client in meeting his/her necessary medical and dental needs.
 - (10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
 - (11) Restricted Health Condition Care Plan, if required for the client by Section 80092.2.
 - (12) Functional assessment as specified in Section 80069.2.
 - (13) Date of termination of services.
 - (14) An account of the client's cash resources, personal property, and valuables entrusted as specified in Section 80026.
- (c) All information and records obtained from or regarding clients shall be confidential.
 - (1) The licensee shall be responsible for safeguarding the confidentiality of record contents.
 - (2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.

80070 CLIENT RECORDS (Continued)**80070**

- (d) All client records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:
- (1) Licensing representatives shall not remove the following current records for current clients unless the same information is otherwise readily available in another document or format:
 - (A) Name, address, and telephone number of the authorized representative(s) as specified in Section 80070(b)(5).
 - (B) Name, address, and telephone number of a client's physician and dentist, and any other medical and mental health providers, as specified in Section 80070(b)(7).
 - (C) Medical assessment, including ambulatory status, as specified in Section 80070(b)(8).
 - (D) Record of any current illness or injury as specified in Section 80070(b)(9).
 - (E) Record of current medications as specified in Section 80070(b)(10).
 - (F) Restricted Health Condition Care Plan as specified in Section 80070(b)(11).
 - (G) Functional assessment as specified in Section 80070(b)(12).
 - (H) Any other records containing current emergency or health-related information for current clients.
 - (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (e) A client's records shall be open to inspection by the client's authorized representative(s), if any.
- (f) The information specified in (b)(1)-(b)(15) above must be updated as necessary to ensure the accuracy of the client's record.
- (g) Original client records or photographic reproductions shall be retained for at least three years following termination of service to the client.

80070 CLIENT RECORDS (Continued)**80070**

- (h) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall meet the requirements of the California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Sections 56073(b), (c), (e), (m) and Sections 56071(b) through (b)(2).

HANDBOOK BEGINS HERE

California Code of Regulations, Title 17, Section 56073(b) provides in pertinent part:

- (b) Prior to placement in a facility utilizing secured perimeters, the regional center shall obtain either a court order authorizing the placement or written consent agreeing to the placement. These documents shall be provided to the residential service provider and maintained in the regional center's records required by Section 56060.
- (1) The written consent shall be signed by:
- (A) A non-conserved consumer, 18 or older, or, as appropriate, the consumer's conservator or other person with legal authority, or
- (B) For a consumer under 18 years of age, by the person having the legal authority to place the consumer in the facility using secured perimeter.
- (2) The written consent shall include:
- (A) A description of the location and manner in which the perimeter will be secured.
- (B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.
- (C) A statement that consent may be withdrawn at any time.
- (c) The following shall be maintained in the consumer's file at the facility required by Section 56059:
- (1) The court order or written consent required under subdivision (b).
- (2) Documentation of the date and time of any withdrawal of consent.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (d) If the consumer's placement is pursuant to a court order, the consumer may remain in the facility upon expiration of the order only if it is determined that he or she meets the admission and continued stay requirements of this section and consent is obtained as provided in (b)(1).
- (e) . . . The IPP shall include a plan to transition the consumer to a less restrictive setting. A copy of those portions of the current IPP related to the residential placement and community services and supports, including the transition plan, shall be maintained in the consumer's record at the facility.
- . . .
- (m) If the individual who signed the consent form for placement pursuant to subdivision (b) informs the licensee or the regional center that he or she withdraws his or her consent to the placement, the following shall occur:
- (1) Upon notification of the withdrawal of consent, the licensee shall immediately inform the regional center, or the regional center shall immediately inform the licensee, as applicable.
 - (2) The licensee and the regional center shall document the withdrawal of consent in the consumer's records maintained, respectively, by the facility and the regional center.
 - (3) The licensee shall inform the consumer, verbally and in writing, of his or her right not to be subject to the secured perimeter, in accord with procedures established pursuant to Section 56070(a)(2)(E).

California Code of Regulations, Title 17, Section 56071 provides in pertinent part:

- (b) The licensee or applicant shall maintain one of the following documents in the consumer's individual consumer file maintained by the facility:
- (1) The written consent for placement, described in paragraph (1) of subdivision (b) of Section 56073.
 - (2) A court order authorizing placement of the consumer in a non-state-operated facility utilizing secured perimeters.

HANDBOOK ENDS HERE

80070 CLIENT RECORDS (Continued)**80070**

- (1) If the informed consent agreeing to the placement in a facility is signed by a client's legally authorized representative, the licensee shall obtain documentation showing that the authorized representative is legally entitled to act on behalf of the client, in this regard, including but not limited to any court order authorizing the individual to act on the client's behalf.
- (i) In addition to these requirements, a licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall ensure that the documents required by Title 17, Section 56073 are maintained in the client record.

HANDBOOK BEGINS HERE

California Code of Regulations, Title 17, Section 56073(a) provides in pertinent part:

- (a) Prior to an admission to an adult residential facility or group home utilizing secured perimeters, the regional center shall conduct a comprehensive assessment and convene a planning team meeting to determine whether the consumer lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with secured perimeters and delayed egress devices. The planning team's determination shall be documented in the client record.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1507, 1531 and 1531.15, Health and Safety Code.

80071 REGISTER OF CLIENTS**80071**

- (a) In all licensed facilities, the following shall apply:
- (1) The licensee shall maintain in the facility a register of all clients. The register shall be immediately available to, and copied for, licensing staff upon request; and must contain current information on the following:
 - (A) Client's name and ambulatory status as specified in Section 80070(b)(1) and (8).
 - (B) Name, address and telephone number of client's attending physician.
 - (C) Authorized representative information as specified in Section 80070(b)(5).
 - (D) Client's restricted health condition(s) specified in Section 80092(b).
 1. The licensee may keep a separate client register with this information.
 - (2) The licensee shall keep the register in a central location at the facility.
 - (A) Registers are confidential, as specified in Section 80070(c).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1507 and 1557.5, Health and Safety Code.

80072 PERSONAL RIGHTS**80072**

- (a) Except for children's residential facilities, each client shall have personal rights which include, but are not limited to, the following:
- (1) To be accorded dignity in his/her personal relationships with staff and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.
 - (4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.

HANDBOOK BEGINS HERE

- (A) Provisions regarding inspection requests are found in Health and Safety Code Section 1538:
1. Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state....
 2. The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection....

HANDBOOK CONTINUES

HANDBOOK CONTINUES

3. Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
- (A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- (6) To leave or depart the facility at any time.
- (A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of clients.
- (B) This provision shall not apply to minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (7) Not to be locked in any room, building, or facility premises by day or night.
- (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.
- (B) The licensee shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only with the prior approval of the licensing agency.

80072 PERSONAL RIGHTS (Continued)**80072**

- (8) Not to be placed in any restraining device. Postural supports may be used under the following conditions.
- (A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.
 - 1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.
 - (B) A written order from the client's physician indicating the need for the postural support shall be maintained in the client's record. The licensing agency shall be authorized to require additional documentation if needed to verify the order.
 - (C) Postural supports shall be fastened or tied in a manner that permits quick release by the client.
 - (D) Prior to the use of postural supports that cause the client to become non-ambulatory, the licensee shall ensure that a fire clearance, as required by Section 80020, has been secured.
 - (E) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a client's hands or feet.
 - 1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed. Bed rails that extend the entire length of the bed are prohibited except for clients who are currently receiving hospice care and have a hospice care plan that specifies the need for full bed rails.

80072 PERSONAL RIGHTS (Continued)**80072**

- (F) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.
1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
 2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.
- (9) To receive or reject medical care, or health-related services, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (10) To be informed of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.
- (b) Section 1531.15(j) of the Health and Safety Code shall apply to a licensee of a Group Home or Adult Residential Facility that has received approval from the Department for the use secured perimeters.

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

HANDBOOK ENDS HERE

- (c) In the event the a licensee of a Group Home or Adult Residential Facility is using secured perimeters and a written consent has been obtained for a client agreeing to the placement in the facility using secured perimeters, the client or, as appropriate, the consumer's conservator or other person with legal authority, shall have the right to withdraw the written consent at any time.
- (1) If consent is revoked then the client shall not be subject to secured perimeters.

80072	PERSONAL RIGHTS (Continued)	80072
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- (b) At admission, a client and the client's authorized representative shall be personally advised of and given a list of the rights specified in Sections 80072(a) (1) through (10) and in the applicable Personal Rights sections of Chapters 2 through 7.
- (c) The information specified in (b) above including the visiting policy as stated in the admissions agreement shall be prominently posted in areas accessible to clients and their visitors.
- (d) The licensee shall ensure that each client is accorded the personal rights as specified in this section and the applicable sections of Chapters 2 through 7.

HANDBOOK BEGINS HERE

- (A) Section 1512 of the Health and Safety Code provides that:

The policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1531 and 1531.15, Health and Safety Code.

80073	TELEPHONES	80073
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- (a) All facilities shall have telephone service on the premises.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528, 1531 and 1539, Health and Safety Code.

80074	TRANSPORTATION	80074
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- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport clients.
- (b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.
- (c) Motor vehicles used to transport clients shall be maintained in a safe operating condition.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528 and 1531, Health and Safety Code.

HANDBOOK BEGINS HERE

This section does not apply to child care centers. For regulations governing health-related services in child care centers, see Chapter 2, Section 81075.

HANDBOOK ENDS HERE

- (a) The licensee shall ensure that each client receives necessary first aid and other needed medical or dental services, including arrangement for and/or provision of transportation to the nearest available services.
- (b) Clients shall be assisted as needed with self-administration of prescription and nonprescription medications.
 - (1) In adult CCFs, facility staff who receive training may assist clients with metered-dose inhalers, and dry powder inhalers if the following requirements are met:
 - (A) In ARFs, facility staff must receive training from a licensed professional.
 - 1. The licensee shall obtain written documentation from the licensed professional outlining the procedures and the names of facility staff who have been trained in those procedures.
 - 2. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
 - (B) All staff training shall be documented in the facility personnel files.
 - (2) Facility staff, except those authorized by law, shall not administer injections but staff designated by the licensee shall be authorized to assist clients with self-administration of injections as needed.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (3) Assistance with self-administration does not include forcing a client to take medications, hiding or camouflaging medications in other substances without the client's knowledge and consent, or otherwise infringing upon a client's right to refuse to take a medication.
- (4) If the client's physician has stated in writing that the client is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, facility staff shall be permitted to assist the client with self-administration of their PRN medication.
- (5) If the client's physician has stated in writing that the client is unable to determine his/her own need for nonprescription PRN medication, but can communicate his/her symptoms clearly, facility staff designated by the licensee shall be permitted to assist the client with self-administration, providing all of the following requirements are met:
 - (A) There is a written direction from a physician, on a prescription blank, specifying the name of the client, the name of the medication, all of the information specified in Section 80075(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication of when the physician should be contacted for a medication reevaluation.
 - (B) Once ordered by the physician the medication is given according to the physician's directions.
 - (C) A record of each dose is maintained in the client's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the client's response.
- (6) If the client is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, facility staff designated by the licensee, shall be permitted to assist the client with self-administration, provided all of the following requirements are met:
 - (A) Facility staff shall contact the client's physician prior to each dose, describe the client's symptoms, and receive direction to assist the client in self-administration of that dose of medication.
 - (B) The date and time of each contact with the physician, and the physician's directions, shall be documented and maintained in the client's facility record.
 - (C) The date and time the PRN medication was taken, the dosage taken, and the client's response, shall be documented and maintained in the client's facility record.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (7) For every prescription and nonprescription PRN medication for which the licensee provides assistance, there shall be a signed, dated written order from a physician on a prescription blank, maintained in the client's file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information.
- (A) The specific symptoms which indicate the need for the use of the medication.
 - (B) The exact dosage.
 - (C) The minimum number of hours between doses.
 - (D) The maximum number of doses allowed in each 24-hour period.
- (c) The isolation room or area specified in Section 80087(d) shall be used where separation from others is required.
- (d) There shall be privacy for first aid treatment of minor injuries and for examination or treatment by a physician if required.
- (e) In adult CCFs, when a client requires oxygen the licensee is responsible for the following:
- (1) Monitoring the client's ongoing ability to operate and care for the equipment in accordance with the physician's instructions, or if the client is unable to do so:
 - (A) Ensuring that an adequate number of facility staff persons are designated to operate and care for the equipment and that those staff persons receive training.
 - 1. The licensee shall comply with all of the requirements for training in Sections 80075(b)(1)(A) through (C).
 - (2) Ensuring that the following conditions are met if oxygen equipment is in use:
 - (A) The licensee makes a written report to the local fire jurisdiction that oxygen is in use at the facility.
 - (B) "No Smoking - Oxygen in Use" signs shall be posted in appropriate areas.
 - (C) Smoking is prohibited where oxygen is in use.
 - (D) All electrical equipment is checked for defects that may cause sparks.
 - (E) Oxygen tanks that are not portable are secured either in a stand or to the wall.

80075 HEALTH-RELATED SERVICES (Continued) 80075

- (F) Plastic tubing from the nasal canula (mask) to the oxygen source is long enough to allow the client movement within his/her room but does not constitute a hazard to the client or others.
 - (G) Clients use oxygen from a portable source when they are outside of their rooms or when walking in a day care setting.
 - (H) Equipment is operable.
 - (I) Facility staff have knowledge and ability to operate and care for the oxygen equipment.
 - (J) Equipment is removed from the facility when no longer in use by the client.
- (f) Staff responsible for providing direct care and supervision shall receive training in first aid from persons qualified by agencies including but not limited to the American Red Cross.
- (g) If the facility has no medical unit on the grounds, first aid supplies shall be maintained and be readily available in a central location in the facility.
- (1) The supplies shall include at least the following:
 - (A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.
 - (B) Sterile first aid dressings.
 - (C) Bandages or roller bandages.
 - (D) Adhesive tape.
 - (E) Scissors.
 - (F) Tweezers.
 - (G) Thermometers.
 - (H) Antiseptic solution.
- (h) There shall be at least one person capable of and responsible for communicating with emergency personnel in the facility at all times. The following information shall be readily available:

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (1) The name, address and telephone number of each client's physician and dentist, and other medical and mental health providers, if any.
- (2) The name, address and telephone number of each emergency agency, including but not limited to the fire department, crisis center or paramedical unit. There shall be at least one medical resource available to be called at all times.
- (3) The name and telephone number of an ambulance service.

HANDBOOK BEGINS HERE

- (4) It is recommended that the licensee obtain consent forms to permit the authorization of medical care.

HANDBOOK ENDS HERE

- (i) When a client requires prosthetic devices, or vision or hearing aids, the staff shall be familiar with the use of these devices and aids and shall assist the client with their utilization as needed.
- (j) Medications shall be centrally stored under the following circumstances:
 - (1) Preservation of the medication requires refrigeration.
 - (2) Any medication determined by the physician to be hazardous if kept in the personal possession of the client for whom it was prescribed.
 - (3) Because of physical arrangements and the condition or the habits of persons in the facility, the medications are determined by either the administrator or by the licensing agency to be a safety hazard.
- (k) The following requirements shall apply to medications which are centrally stored:
 - (1) Medication shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.
 - (2) Each container shall identify the items specified in (7)(A) through (G) below.
 - (3) All medications shall be labeled and maintained in compliance with label instructions and state and federal laws.
 - (4) No person other than the dispensing pharmacist shall alter a prescription label.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

- (5) Each client's medication shall be stored in its originally received container.
- (6) No medications shall be transferred between containers.
- (7) The licensee shall ensure the maintenance, for each client, of a record of centrally stored prescription medications which is retained for at least one year and includes the following:
 - (A) The name of the client for whom prescribed.
 - (B) The name of the prescribing physician.
 - (C) The drug name, strength and quantity.
 - (D) The date filled.
 - (E) The prescription number and the name of the issuing pharmacy.
 - (F) Expiration date.
 - (G) Number of refills.
 - (H) Instructions, if any, regarding control and custody of the medication.
- (l) Prescription medications which are not taken with the client upon termination of services, or which are not to be retained shall be destroyed by the facility administrator, or a designated substitute, and one other adult who is not a client.
 - (1) Both shall sign a record, to be retained for at least one year, which lists the following:
 - (A) Name of the client.
 - (B) The prescription number and the name of the pharmacy.
 - (C) The drug name, strength and quantity destroyed.
 - (D) The date of destruction.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530 and 1531, Health and Safety Code.

80075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)**80075.1**

- (a) In an adult community care facility, a licensee is permitted to maintain and operate an AED at the facility if all of the following requirements are met:
- (1) The licensee shall notify the licensing agency in writing that an AED is in the facility and will be used in accordance with all applicable federal and other state requirements.
 - (2) The AED shall be used in accordance with all applicable federal and other state requirements.
 - (3) The licensee shall maintain at the facility the following:
 - (A) A copy of the required physician's prescription for the AED.
 - (B) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.
 - (C) A log of checks of operation of the AED containing the dates checked and the name of person checking.
 - (D) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.
 - (E) A log of quarterly proficiency demonstrations for each holder of an AED operator's certificate who is authorized by the licensee to operate the AED. The log shall contain the dates of the demonstrations and the manner of demonstration.

80075.1 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)
(Continued)**80075.1**

- (4) A supply kit shall be maintained at the facility and be readily available for use with the AED. The kit shall contain at least the following:
- (A) A back-up battery set.
 - (B) An extra set of pads.
 - (C) A safety razor for shaving chest hair when necessary to apply the pads.
 - (D) A cardiovascular pulmonary resuscitation barrier (a face shield or mask) for protection from transmission of infectious disease.
 - (E) Two pairs of unused medical examination gloves (latex or non-latex).
- (5) Use of an AED shall be reported as specified in Section 80061.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531, and 1797.196, Health and Safety Code.

80076 FOOD SERVICE

80076

(a) In facilities providing meals to clients, the following shall apply:

- (1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the clients. Each meal shall meet at least 1/3 of the servings recommended in the USDA Basic Food Group Plan - Daily Food Guide for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

HANDBOOK BEGINS HERE
(A) USDA BASIC FOOD GROUP PLAN DAILY FOOD GUIDE

FOODS TO INCLUDE DAILY	SERVING SIZE	RECOMMENDED NUMBER OF SERVINGS FOR EACH AGE GROUP					
		PRE- SCHOOL CHILD	SCHOOL- AGE CHILD	TEEN- AGER	ADULT	PREG- NANT NURSING	OLDER ADULT
MILK & MILK PRODUCTS							
milk	8 oz.						
yogurt	8 oz.						
cheese	2 oz.	2	2-3	3-4	2	3 or more	2
cottage ice cream	1&1/2 C 2 C			or more			
tofu	8 oz.						
MEAT & ALTERNATES							
beef, pork, lamb, fowl, fish small serv.	3 oz. 1&1/2 oz.						
Alternates for meat	eq. to 2-3 oz.	2 sm	1-2	2-3 or more	2	2 or more	2
beans, peas and lentils	1-1&1/2 C						
peanut butter	4-6 Tbsp.						
eggs	2-3						
cheese	2-3 oz.						
cottage	1/2-3/4 C						
canned fish	1/2-3/4 C						
nuts	2/3-1 C						
tofu	6-9 oz.						
wheat germ	1/2-3/4 C						
sunflower, pumpkin, & sesame seeds	1/2-3/4 C						
DEEP GREEN AND/OR YELLOW VEGETABLES							
small serving	1/2 C 1/4-1/3 C	1 sm	1	1 or more	1	1 or more	1

HANDBOOK CONTINUES

80076 FOOD SERVICE (Continued)

80076

HANDBOOK CONTINUES

(A) USDA BASIC FOOD GROUP PLAN DAILY FOOD GUIDE

FOODS TO INCLUDE DAILY	SERVING SIZE	RECOMMENDED NUMBER OF SERVINGS FOR EACH AGE GROUP					
		PRE- SCHOOL CHILD	SCHOOL- AGE CHILD	TEEN- AGER	ADULT	PREG- NANT NURSING	OLDER ADULT
OTHER VEGETABLES, JUICES AND FRUITS small serving	1/2 C 1/4-1/3 C	2 sm	2	2 or more	2	2 or more	2
HIGH VITAMIN C FRUITS AND/OR JUICES, sm serv.	1/2 C 1/4-1/3 C	1 sm	1	1 or more	1	1 or more	1
BREADS & CEREALS							
(whole gr. or enriched) bread	1 slice						
dry cereal	3/4 C						
cooked cereal, rice, noodles	1/2 C						
crackers	4	4 sm	3-4	4 or more	4	4 or more	3-4
tortilla	1 med						
small serv = 1/2 of the serv sizes for breads & cereals							
OTHER FOODS: inc. fats, sweets, desserts, etc.							AS APPROPRIATE TO ENERGY NEEDS
FLUIDS: inc. water							AS APPROPRIATE TO NEEDS
MISCELLANEOUS: iodized salt, fiber, vitamin supplement, etc.							AS APPROPRIATE TO NEEDS

*Count cheese as one serving of milk or meat, not both. Adapted from the OREGON DIET MANUAL, fifth edition, 1975, State of Oregon Department Human Resources.

HANDBOOK ENDS HERE

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80076 FOOD SERVICE (Continued)**80076**

- (2) Where all food is provided by the facility, arrangements shall be made so that each client has available at least three meals per day.
 - (A) Not more than 15 hours shall elapse between the third meal of one day and first meal of the following day.
- (3) Where meal service within a facility is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of (a) (1) above for all clients who, in their admission agreement, elect meal service.
- (4) Between meal nourishment or snacks shall be available for all clients unless limited by dietary restrictions prescribed by a physician.
- (5) Menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the clients or their authorized representatives and the licensing agency upon request.
- (6) Modified diets prescribed by a client's physician as a medical necessity shall be provided.
 - (A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.
- (7) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.
- (8) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (9) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code shall not be used. Milk shall be pasteurized.
- (10) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.
- (11) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.

80076 FOOD SERVICE (Continued)**80076**

- (12) If food is prepared off the facility premises, the following shall apply:
- (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility shall have the equipment and staff necessary to receive and serve the food and for cleanup.
 - (C) The facility shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.
- (13) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (14) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.
- (15) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
- (16) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (17) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.
- (18) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
- (19) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (20) All dishes and utensils used for eating and drinking and in the preparation of food and drink, shall be cleaned and sanitized after each usage.
- (A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.

80076	FOOD SERVICE (Continued)	80076
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- (B) Facilities not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.
- (21) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
- (22) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the clients.
- (23) Adaptive devices shall be provided for self-help in eating as needed by clients.
- (b) The licensing agency shall have the authority to require the facility to provide written information, including menus, regarding the food purchased and used over a given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this Division.
 - (1) The licensing agency shall specify in writing the written information required from the licensee.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1528, 1530, 1530.5 and 1531, Health and Safety Code.

80077	PERSONAL SERVICES (RESERVED)	80077
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80077.2	CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING	80077.2
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- (a) A licensee of an adult CCF may accept or retain a client who relies upon others to perform all activities of daily living for them.
- (b) Prior to accepting a client into care, the licensee shall complete the following:
 - (1) An approved plan of operation demonstrating the licensee's ability to care for these clients as specified in Section 80022(e).
 - (2) A Needs and Services Plan, as required by the facility-specific regulations, that includes all of the following:
 - (A) A plan to monitor the client's skin condition, including:

80077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING (Continued) 80077.2

1. Specific guidelines for turning the client (time, method, acceptable positions).
 2. Skin breakdown.
 3. Objective symptoms, observable by a lay person, indicating when a licensed professional must be contacted.
- (B) A method for feeding the client and providing him/her with hydration.
- (C) A method for determining the client's needs.
- (D) A method for communicating with the client.
- (E) A list of emergency contacts and a list of readily observable conditions that indicate when emergency intervention is necessary.
- (F) A list of persons to contact in the event of non-emergency client distress or discomfort and a list of readily observable conditions that indicate when the licensee is to contact those persons.
- (G) A description of the client-specific training that facility staff will receive.
1. The training must be provided by the client's health care provider (physician or nurse), the client's physical or mental health therapist, social worker, and placement worker, within their individual scopes of practice.
 2. The training must include the client's needs and objective symptoms that indicate when the licensee is to obtain health care or other type of assistance.
 3. Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.
- (H) In an ARF, an agreement, signed by the placement agency, or authorized representative, to review the client's care at least once a month. A copy of the agreement shall be maintained in the client's file.

80077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING (Continued) 80077.2

- (l) The licensee's agreement to document significant occurrences that result in changes in the client's physical, mental, and/or functional capabilities. This documentation must be retained in the client's record in the facility and be readily available for review by the client's health care providers and the Department.
- (c) The Department may require any additional information it considers necessary to ensure the safety of clients.
- (d) Repealed by Manual Letter No. CCL-02-10, effective 9/8/02.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1530, Health and Safety Code.

80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL 80077.3

- (a) If a client requires protective supervision because of running/wandering away, supervision may be enhanced by fencing yards, using self-closing latches and gates, and installing operational bells, buzzers, or other auditory devices on exterior doors to alert staff when the door is opened. The fencing and devices must not substitute for appropriate staffing.
- (1) The licensee may use wrist bands and other client egress-alert devices with the prior written approval of the client or authorized representative, if the client is legally incapable of giving consent, provided that the devices do not violate Section 80072.
- (2) The licensee of an ARF, GH, SFH, FFH, or CFH may use a delayed-egress device if the client lacks hazard awareness or impulse control and only as specified in Health and Safety Code Section 1531.1.

**80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS
OR IMPULSE CONTROL (Continued)****80077.3**

HANDBOOK BEGINS HERE

Health and Safety Code Section 1531. 1 is paraphrased in pertinent part:

- (a) A residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.
- (b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.
- (c) Within 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.
- (d) Any person accepted by a residential facility ... utilizing delayed egress devices shall meet all of the following conditions:
 - (1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.
 - (2) The person shall be receiving services and case management from a Regional Center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).
 - (3) An interdisciplinary team, through the Individual Program Plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

HANDBOOK CONTINUES

**80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS
OR IMPULSE CONTROL (Continued)****80077.3**

HANDBOOK CONTINUES

- (e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress device.
- (f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.
- (g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 of the Health and Safety Code.
- (h) The plan shall include, but shall not be limited to, all of the following:
 - (1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.
 - (2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.
 - (3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.
 - (4) A description of the facility's emergency evacuation procedures.
- (i) Delayed egress devices shall not substitute for adequate staff. The capacity of the facility shall not exceed six residents.
- (j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision.

HANDBOOK ENDS HERE

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80077.3 CARE FOR CLIENTS WHO LACK HAZARD AWARENESS OR IMPULSE CONTROL (Continued) 80077.3

- (3) The following initial and continuing requirements must be met for the licensee to utilize delayed egress devices on exterior doors or perimeter fence gates:
- (A) The licensee shall notify the Department immediately after determining the date that the device will be installed.
 - (B) The licensee shall ensure that the fire clearance includes approval of delayed egress devices.
 - (C) Following the disaster and mass casualty plan specified in Section 80023, fire and earthquake drills shall be conducted at least once every three months on each shift and shall include, at a minimum, all facility staff who provide or supervise client care and supervision.
 - (D) Without violating Section 80072(a)(6), facility staff shall attempt to redirect a client who lacks hazard awareness or impulse control and who attempts to leave the facility.
 - (E) Clients who continue to indicate a desire to leave the facility following an egress delay shall be permitted to do so.
 - (F) Without violating Section 80072(a)(6), facility staff shall ensure the continued safety of clients when they leave the facility.
 - (G) The licensee shall report to the Department, to the client's responsible representative, if any, and to any family member who has requested notification, each incident in which a client leaves the facility unassisted. The report shall be made by telephone no later than the next working day and in writing within seven calendar days.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530, 1531, and 1531.1, Health and Safety Code.

80077.4 CARE FOR CLIENTS WITH INCONTINENCE**80077.4**

- (a) A licensee of an adult CCF may accept or retain a client who has bowel and/or bladder incontinence.
- (b) If a licensee accepts or retains a client who has bowel and/or bladder incontinence, the licensee is responsible for all of the following:
 - (1) Ensuring that incontinent care products appropriate to the needs of the client are used whenever they are needed.
 - (2) Ensuring that clients who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.
 - (3) Assisting the client with self-care.
 - (4) Ensuring that clients with incontinence are kept clean and dry, and that the facility remains free of odors.
 - (5) Ensuring that, where prescribed, bowel and/or bladder programs are designed by a licensed professional or designee. The person designing the program must have training and experience in care of persons with bowel and/or bladder dysfunction and development of retraining programs for establishing normal patterns of continence.
 - (A) The licensee shall ensure that clients are assisted with a structured bowel and/or bladder retraining program if one has been designed for the client.
 - (B) The licensee shall ensure that facility staff responsible for implementing the program receive training from the licensed professional or designee who designed the program.
 - (C) The licensee obtains from the licensed professional or designee written instructions to facility staff outlining the procedures and shall document the names of facility staff who received the training.
 - (D) The licensee shall ensure that the licensed professional or designee evaluates the effectiveness of the program and staff as the licensed professional or designee deems appropriate, but at least annually.
 - (6) Ensuring that the condition of the skin exposed to urine and stool is evaluated regularly to ensure that skin breakdown is not occurring.
 - (7) Ensuring privacy when care is provided.
 - (8) Providing needed incontinence supplies when the client or a third party is unable to do so.

80077.4	CARE FOR CLIENTS WITH INCONTINENCE	80077.4
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(Continued)

- (9) Ensuring that fluids are not withheld to control incontinence.
- (10) Ensuring that a client with incontinence is not catheterized to control incontinence for the convenience of the licensee or facility staff.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80077.5	CARE FOR CLIENTS WITH CONTRACTURES	80077.5
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- (a) A licensee of an adult CCF may accept or retain a client who has contractures.
 - (1) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.
 - (2) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.
- (b) If a licensee accepts or retains a client who has contractures, the licensee is responsible for all of the following:
 - (1) Monitoring the client's ongoing ability to care for his/her contractures in accordance with the physician's instructions.
 - (2) Ensuring that care is provided by a licensed professional or trained facility staff when the client is unable to provide self-care.
 - (A) The licensee shall ensure that facility staff responsible for assisting with range of motion exercises or other exercise(s) prescribed by the physician or therapist receive supervision and training from a licensed professional.
 - (B) The licensee obtains from the licensed professional written documentation outlining the procedures for the exercises and the names of facility staff who received the training.
 - (C) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
- (c) In addition to Section 80077.5(b), in an ARF, the licensee shall ensure that there is a plan of care for the contractures that is developed by a licensed professional.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION**80078**

- (a) The licensee shall provide care and supervision as necessary to meet the client's needs.
- (b) In any instance where the Department does not suspend the facility license and the licensing agency requires that a client/resident be relocated, as specified in Section 80094, the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the client/resident which may result in transfer trauma.
 - (1) The written relocation plan shall include, but not be limited to the following:
 - (A) A specific date for beginning and a specific date for completion of the process of safely relocating the client/resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days or 30 days after the date of the written conclusion of the client's appeal of the relocation order, if appealed.
 - (B) A specific date when the client/resident and the client's/resident's authorized representative, if any, shall be notified of the need for relocation.
 - (C) A specific date when consultation with the client's/resident's physician shall occur to obtain a current medical assessment of the client's/resident's health needs, to determine the appropriate facility type for relocation and to ensure that the client's/resident's health care needs continue to be met at all times during the relocation process.
 - (D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the client/resident and the authorized representative, if any. The licensee shall advise the client/resident and/or the authorized representative that if the client/resident is to be moved to another nonmedical community care facility, a determination must be made that the client's/resident's needs can be legally met in the new facility before the move is made. If the client's/resident's needs cannot be legally met in the new facility, the client/resident must be moved to a facility licensed to provide the necessary care.
 - (E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy and others as appropriate to ensure that services are provided to the client/resident before, during and after the move. The need for the move shall be discussed with the client/resident and the client/resident assured that support systems will remain in place.
 - (F) Measures to be taken until relocation to protect the client/resident and/or meet the client's/resident's health and safety needs.

80078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 80078
(Continued)

- (G) An agreement to notify the licensing agency when the relocation has occurred, including the client's/resident's new address, if known.
- (2) The relocation plan shall be submitted in writing to the licensing agency within the time set forth in the written notice by the licensing agency that the client/resident requires health services that the facility cannot legally provide.
- (3) Any changes in the relocation plan shall be submitted in writing to the licensing agency. The licensing agency shall have the authority to approve, disapprove or modify the plan.
- (4) If relocation of more than one (1) client/resident is required, a separate plan shall be prepared and submitted in writing for each client/resident.
- (5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in Sections 80078(b) and (c) for relocating a client/resident who has a health condition(s) which cannot be cared for in the facility and/or requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the client/resident.
- (6) In cases where the licensing agency determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the licensing agency shall have the authority to order the licensee to immediately relocate the resident.
- (c) In all cases when a client or resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the licensing agency in the relocation process. Such cooperation shall include, but not be limited to, the following activities:
- (1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the client or resident.
- (2) Contacting the authorized representative of the client/resident to assist in transporting him or her, if necessary.
- (3) Contacting other suitable facilities for placement, if necessary.
- (4) Providing access to client's/resident's files when required by the Department.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1511, 1528, 1531 and 1556, Health and Safety Code.

80079 ACTIVITIES (RESERVED)**80079**

Article 7. PHYSICAL ENVIRONMENT**80086 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 80086**

- (a) Prior to construction or alterations, all licensees shall notify the licensing agency of the proposed change.
- (b) The licensing agency shall have the authority to require that the licensee have a building inspection by a local building inspector if the agency suspects that a hazard to the clients' health and safety exists.

HANDBOOK BEGINS HERE

- (c) Prior to construction or alterations, state or local law requires that all facilities secure a building permit.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

80087 BUILDINGS AND GROUNDS 80087

- (a) The facility shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors.
 - (1) The licensee shall take measures to keep the facility free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.
- (b) All clients shall be protected against hazards within the facility through provision of the following:
 - (1) Protective devices including but not limited to nonslip material on rugs.

80087 BUILDINGS AND GROUNDS (Continued) 80087

- (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.
- (d) General permanent or portable storage space shall be available for the storage of facility equipment and supplies.
- (1) Facility equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter and Chapters 2, and 4 through 7.
- (e) All licensees serving children or serving clients who have physical handicaps, mental disorders, or developmental disabilities shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds or similar bodies of water through a pool cover or by surrounding the pool with a fence.
- (1) Fences shall be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self-close and have a self-latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.
- (A) If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fence requirements specified in Section 80087(e)(1) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall meet the fence requirements specified in Section 80087(e)(1).
- (2) Where an above-ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 80087(e)(1).

80087 BUILDINGS AND GROUNDS (Continued)**80087**

- (f) All in-ground pools, and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.
- (g) Disinfectants, cleaning solutions, poisons, firearms and other items that could pose a danger if readily available to clients shall be stored where inaccessible to clients.
- (1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.
 - (2) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.
 - (A) Firing pins shall be stored and locked separately from firearms.
 - (3) Ammunition shall be stored and locked separately from firearms.
- (h) Medicines shall be stored as specified in Section 80075(m) and (n) and separately from other items specified in Section 80087(g) above.
- (i) The items specified in Section 80087(g) above shall not be stored in food storage areas or in storage areas used by or for clients.
- (j) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall comply with Health and Safety Code section 1531.15(i) and California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56071(c):

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

California Code of Regulations, Title 17, Section 56071 provides in part:

- (c) Grounds of residential facilities governed by this article may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.282) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1530 and 1531.15, Health and Safety Code. Reference: Sections 1501, 1531 and 1531.15, Health and Safety Code.

80088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES**80088**

- (a) A comfortable temperature for clients shall be maintained at all times.
- (1) The licensee shall maintain the temperature in rooms that clients occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).
- (A) In areas of extreme heat the maximum shall be 30 degrees F (16.6 degrees C) less than the outside temperature.
- (2) Nothing in this section shall prohibit clients from adjusting individual thermostatic controls.
- (b) All window screens shall be in good repair and be free of insects, dirt and other debris.
- (c) Fireplaces and open-faced heaters shall be made inaccessible to clients to ensure protection of the clients' safety.

HANDBOOK BEGINS HERE

- (1) The use of a fireplace screen or similar barrier will meet this requirement.

HANDBOOK ENDS HERE

- (d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the facility.
- (e) Faucets used by clients for personal care such as shaving and grooming shall deliver hot water.
- (1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by clients to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).

80088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES (Continued) 80088

- (2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.
 - (3) All toilets, hand washing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in facilities accommodating physically handicapped clients who need such items.
- (f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.
- (1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.
 - (2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with (f) above.
 - (3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.
- (g) The licensee shall provide linens of various kinds necessary to meet the program of services being offered by the facility and the requirements specified in Chapters 2 through 7.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

Article 8. INCIDENTAL MEDICAL SERVICES**80090 HEALTH AND SAFETY SERVICES****80090**

- (a) The provisions of this article are applicable to adult CCFs.
- (b) Waivers or exceptions will not be granted to accept or retain clients who have health conditions prohibited by Section 80091.
- (c) The Department may grant an exception allowing acceptance or retention of a client who has a medical or health condition not listed in Section 80092 if all of the following requirements are met:
 - (1) Either the condition is chronic and stable, or it is temporary in nature and is expected to return to a condition normal for that client.
 - (2) The client must be under the medical care of a licensed professional.
 - (3) The licensee has developed a plan of care for the client as specified in Sections 80068.2 and 80092.2.
 - (4) The client is able to care for all aspects of the condition for himself/herself or assistance in the care of the condition is provided either by an appropriately skilled and licensed professional, or by facility staff who receive supervision and training from a licensed professional.
 - (A) Training shall include hands-on instruction in both general procedures and client-specific procedures.
 - (B) The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility staff who received the training.
 - (C) The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

80090 HEALTH AND SAFETY SERVICES 80090
(Continued)

- (5) The licensee all aspects of the client's care plans.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1530, Health and Safety Code.

80091 PROHIBITED HEALTH CONDITIONS 80091

- (a) In adult CCFs clients who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained.
- (1) Naso-gastric and naso-duodenal tubes.
 - (2) Active, communicable TB.
 - (3) Conditions that require 24-hour nursing care and/or monitoring.
 - (4) Stage 3 and 4 dermal ulcers.
 - (5) Any other condition or care requirements which would require the facility to be licensed as a health facility as defined by Sections 1202 and 1250 of the Health and Safety Code.
- (b) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, 1531, and 1557.5, Health and Safety Code.

80092 RESTRICTED HEALTH CONDITIONS**HANDBOOK BEGINS HERE**

Section 1502(a) of the Health and Safety Code defines a Community Care Facility (CCF) as providing non-medical residential and day care. Clients who require nursing care and/or monitoring generally may not be in CCFs, though there are exceptions. The exceptions include hospice care in RCFEs, medical care in residential care facilities for the chronically ill (RCF-CIs), and medically fragile children receiving specialized care in Foster Family Homes.

HANDBOOK ENDS HERE

- (a) Adult CCFs may accept or retain clients who have the conditions listed in this section only if all requirements of Article 8 are met.
- (b) Care for the following health conditions must be provided only as specified in Sections 80092.1 through 80092.11.
 - (1) Use of inhalation-assistive devices as specified in Section 80092.3.
 - (2) Colostomy/ileostomies as specified in Section 80092.4.
 - (3) Requirement for fecal impaction removal, enemas, suppositories only as specified in Section 80092.5.
 - (4) Use of catheters as specified in Section 80092.6.
 - (5) Insulin-dependent Diabetes as specified in Section 80092.8.
 - (6) Stage 1 and 2 dermal ulcers as specified in Section 80092.9.
 - (7) Wounds as specified in Section 80092.9.
 - (8) Gastrostomies as specified in Section 80092.10.
 - (9) Tracheostomies as specified in Section 80092.11.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS

- (a) A client with a restricted health condition specified in Section 80092 may be admitted or retained in an adult CCF if all requirements in Sections 80092.1(b) through (o) are met.
- (b) The licensee is willing to provide the needed care.
- (c) Care is provided as specified in this article.
- (d) Either the client's medical condition is chronic and stable, or is temporary in nature and is expected to return to a condition normal for that client, and
- (e) The client must be under the medical care of a licensed professional.
- (f) Prior to admission of a client with a restricted health condition specified in Section 80092, the licensee shall:
 - (1) Communicate with all other persons who provide care to that client to ensure consistency of care for the medical condition.
 - (2) Ensure that facility staff who will participate in meeting the client's specialized care needs complete training provided by a licensed professional sufficient to meet those needs.
 - (A) Training shall include hands-on instruction in both general procedures and client-specific procedures.
- (g) All new facility staff who will participate in meeting the client's specialized care needs shall complete the training prior to providing services to the client.
- (h) The licensee shall ensure that facility staff receive instruction from the client's physician or other licensed professional to recognize objective symptoms, observable by a lay person, and how to respond to that client's health problems, including who to contact.
- (i) The licensee shall monitor the client's ability to provide self-care for the restricted health condition, document any change in that ability, and inform the persons identified in Section 80092.2(a)(1) of that change.
- (j) Should the condition of the client change, all staff providing care and services shall complete any additional training required to meet the client's new needs, as determined by the client's physician or a licensed professional designated by the physician.
- (k) If the licensed health professional delegates routine care, the following requirements must be met for health conditions specified in Sections 80092.3, 80092.4 and 80092.6 through 80092.11:

80092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS (Continued) 80092.1

- (1) The licensee shall obtain written documentation from the licensed professional outlining the procedures and the names of the facility staff who have been trained in those procedures.
 - (2) The licensee ensures that the licensed professional reviews staff performance as often as necessary, but at least annually.
- (l) All training shall be documented in the facility personnel files.
 - (m) The licensee of an ARF shall develop and maintain, as part of the Needs and Services Plan, a Restricted Health Condition Care Plan as specified in Section 80092.2.
 - (1) The care plan shall neither require nor recommend that the licensee or any facility personnel or any other person providing care, other than a physician or licensed professional, implement any health care procedure that may legally be provided only by a physician or licensed professional.
 - (n) The licensee shall ensure that the client's health-related service needs are met and shall follow the approved plan for each client.
 - (o) The licensee shall document any significant occurrences that result in changes in the client's physical, mental and/or functional capabilities and report these changes to the client's physician and authorized representative.
 - (p) The licensee shall demonstrate compliance with the restricted health condition care plan by maintaining in the facility all relevant documentation.
 - (q) The licensee shall report any substantive deviation from the care plan to the client's authorized representative.
 - (r) The duty established by this section does not infringe on a client's right to receive or reject medical care or services, as allowed in Section 80072.
 - (1) If a client refuses medical services specified in the care plan, the licensee shall immediately notify all persons identified in Section 80092.2(a)(1) and shall participate in developing a plan for meeting the client's needs.
 - (2) If unable to meet the client's needs, the licensee shall issue an eviction notice as specified in Section 80068.5.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.2 RESTRICTED HEALTH CONDITION CARE PLAN**80092.2**

- (a) If the licensee of an ARF chooses to care for a client with a restricted health condition, as specified in Section 80092, the licensee shall develop and maintain, as part of the Needs and Services Plan, a written Restricted Health Condition Care Plan. The plan must include all of the following:
- (1) Documentation that the client and the client's authorized representative, if any, the client's physician or a licensed professional designated by the physician, and the placement agency, if any, participated in the development of the plan.
 - (2) Documentation by the client's physician or a licensed professional designated by the physician, of the following:
 - (A) Stability of the medical condition.
 - (B) Medical conditions that require services or procedures.
 - (C) Specific services needed.
 - (D) Client's ability to perform the procedures.
 - (E) The client does not require 24-hour nursing care and/or monitoring.
 - (3) Identification of a licensed professional who will perform procedures if the client needs medical assistance.
 - (4) Identification of the person(s) who will perform incidental medical assistance that does not require a licensed professional.
 - (5) Name and telephone number of emergency medical contacts.
 - (6) A date specified by the client's physician or designee, who is also a licensed professional, when the plan must be reviewed by all parties identified in Section 80092.2(a)(1).
 - (7) A signed statement from the client's attending physician that the plan meets medical scope of practice requirements.
 - (8) For clients of a placement agency, a signed statement from a representative of the placement agency that they have reviewed and approved the plan and that the placement agency will monitor implementation of the plan.

80092.2 RESTRICTED HEALTH CONDITION CARE PLAN 80092.2
(Continued)

- (b) The Restricted Health Condition Care Plan shall neither require nor recommend that the licensee or any facility personnel or any other person providing care, other than a physician or licensed professional, implement any health care procedure that may legally be provided only by a physician or licensed professional.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.3 INHALATION-ASSISTIVE DEVICES 80092.3

- (a) A licensee of an adult CCF may accept or retain a client who requires the use of an inhalation-assistive device if all of the following conditions are met:
- (1) The licensee is in compliance with Section 80092.1.
 - (2) The licensee monitors the client's ongoing ability to operate and care for the device in accordance with the physician's instructions.
 - (3) The licensee ensures that either:
 - (A) The device is operated and cared for by a licensed professional when the client is unable to operate the device, or determine his/her own need.
 - (B) The device can legally be operated by an unlicensed person and is cared for by facility staff who receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2).
 - (4) The licensee ensures that:
 - (A) The device is functional.
 - (B) The device is removed from the facility when no longer prescribed for use by the client.
 - (5) The licensee ensures that the room containing the device is large enough both to accommodate it and to allow easy passage of clients and staff.

80092.3 INHALATION-ASSISTIVE DEVICES
(Continued)**80092.3**

- (6) The licensee ensures that facility staff have the knowledge of and ability to care for the device.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.4 COLOSTOMY/ILEOSTOMY**80092.4**

- (a) A licensee of an adult CCF may accept or retain a client who has a colostomy or ileostomy if all of the following conditions are met:
- (1) The client is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.
 - (2) A licensed professional provides assistance in the care of the ostomy.
 - (3) The licensee is in compliance with Section 80092.1.
 - (4) The licensee monitors the client's ongoing ability to provide care for his/her ostomy in accordance with the physician's instructions.
 - (5) The licensee ensures that:
 - (A) A licensed professional provides ostomy care when the client is unable to provide self-care.
 - (B) The ostomy bag and adhesive may be changed by facility staff who receive training from the licensed professional as specified in Sections 80092.1(k) through (k)(2).
 - (6) The licensee ensures that used bags are discarded as specified in Section 80088(f)(2).
 - (7) The licensee ensures privacy when ostomy care is provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.5 FECAL IMPACTION REMOVAL, ENEMAS, OR SUPPOSITORIES

- (a) A licensee of an adult CCF may accept or retain a client who requires manual fecal impaction removal, enemas, or use of suppositories if all of the following conditions are met:
- (1) The licensee is in compliance with Section 80092.1.
 - (2) The licensee monitors the client's ongoing ability to provide his/her own routine care in accordance with the physician's instructions.
 - (3) The licensee ensures that a licensed professional administers the fecal impaction removal, the enemas, or suppositories when the client is unable to do so for himself/herself.
 - (4) The licensee ensures that a licensed professional performs manual fecal impaction removal whenever it is necessary.
 - (5) The licensee ensures privacy when care is being provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE

- (a) A licensee of an adult CCF may accept or retain a client who requires an indwelling catheter if all of the following conditions are met:
- (1) The client is physically and mentally capable of caring for all aspects of the condition except insertion, removal and irrigation.
 - (A) Irrigation shall only be performed by a licensed professional in accordance with the physician's orders.
 - (B) Insertion and removal shall only be performed by a licensed professional.
 - (2) The licensee is in compliance with Section 80092.1.
 - (3) The licensee monitors the client's ongoing ability to care for his/her catheter in accordance with the physician's instructions.

80092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE (Continued)

- (4) The licensee ensures that either catheter care is provided by a licensed professional when the client is unable to provide self-care, or the catheter bag and tubing are changed and bags are emptied by facility staff who receive training from the licensed professional as specified in Sections 80092.1(k) through (k)(2).
- (5) The licensee ensures that insertion, removal and irrigation of the catheter, or any other required catheter care other than that specified in Section 80092.6(a)(4) are performed by a licensed professional.
- (6) The licensee ensures that waste materials are disposed of as specified in Section 80088(f)(2).
- (7) The licensee ensures privacy when care is provided.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS**80092.7**

Repealed by CDSS Manual Letter No. CCL 22-01, effective 2/7/22.

80092.8 DIABETES

- (a) A licensee of an adult CCF may accept or retain a client who has diabetes if all of the following conditions are met:
- (1) The licensee is in compliance with Section 80092.1.
 - (2) The client is mentally and physically capable of administering his/her own medication and performing his/her own glucose testing if applicable, or a licensed professional administers the tests and injections.
 - (A) The licensed professional may delegate to trained facility staff glucose testing provided all of the following conditions are met:
 1. The blood glucose-monitoring test is performed with a blood glucose-monitoring instrument that has been approved by the federal Food and Drug Administration for over-the-counter sale.
 2. The licensee ensures that facility staff responsible for glucose testing receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2).
 3. Facility staff comply with the instructions of the licensed professional regarding the performance of the test and the operation of the blood glucose-monitoring instrument.
 4. Facility staff immediately notify the client's physician if the results are not within the normal range for the client.
 5. The licensee ensures that the results of each blood glucose test performed by facility staff are documented and maintained in the client's record in the facility.
 - (3) The licensee ensures that sufficient amounts of medicines, testing equipment, syringes, needles, and other supplies are maintained and stored in the facility.

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80092.8 DIABETES
(Continued)**80092.8**

- (4) The licensee ensures that injections are administered immediately after a syringe is filled unless the client is using prefilled syringes prepared by a registered nurse, pharmacist or drug manufacturer.
- (5) The licensee ensures that syringes and needles are disposed of in accordance with California Code of Regulations, Title 8, Section 5193.

HANDBOOK BEGINS HERE

- (A) California Code of Regulations, Title 8, Section 5193(d)(2) is paraphrased in pertinent part:

Contaminated needles and other contaminated sharps shall not be bent, recapped or removed. Shearing or breaking of contaminated needles is prohibited.

Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

- 1. Puncture resistant;
- 2. Labeled in accordance with this section;
- 3. Leakproof on the sides and bottom; and
- 4. Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.

HANDBOOK ENDS HERE

- (6) The licensee provides a modified diet as prescribed by a client's physician, as specified in Section 80076(a)(6). Any substitutions shall be made by the facility dietitian or in consultation with a registered dietician or the client's physician or medical provider.
 - (A) Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.
- (7) The licensee ensures that all facility staff who provide care receive training in recognizing the signs and symptoms of hyperglycemia and hypoglycemia and in taking appropriate action for client safety.

80092.8 DIABETES
(Continued)**80092.8**

(b) For clients who provide self-care, the licensee shall:

- (1) Monitor the client's ongoing ability to perform his/her glucose testing and administer his/her medication in accordance with the physician's instructions.
- (2) Assist clients with self-administered medication, as specified in Section 80075.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1531, Health and Safety Code.

80092.9 WOUNDS**80092.9**

(a) A licensee of an adult CCF may accept or retain a client who has a serious wound if all of the following conditions are met:

- (1) The licensee is in compliance with Section 80092.1.
- (2) The wound is either an unhealed, surgically closed incision or wound, or determined by the physician or a licensed professional designated by the physician to be a Stage 1 or 2 dermal ulcer and is expected by the physician or designated professional to completely heal.
- (3) The licensee ensures that a licensed professional in accordance with the physician's instructions provides the wound care.
 - (A) The licensed professional may delegate simple dressing to facility staff who receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2).
 - (B) Repealed by Manual Letter No. CCL-07-01, effective 1/12/07.

80092.9 WOUNDS (Continued) 80092.9

- (4) The licensee ensures that a licensed professional assesses the wound at intervals set by the physician, or a licensed professional designated by the physician, to evaluate treatment and progress toward healing.
 - (5) The licensee ensures that all aspects of care performed by the licensed professional and facility staff are documented in the client's file.
- (b) Non-serious wounds, which include but are not limited to minor cuts, punctures, lacerations, abrasions, and first-degree burns are not affected by this section.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE 80092.10

- (a) A licensee of an adult CCF may accept or retain a client who requires gastrostomy care, feeding, and/or hydration if all of the following conditions are met:
- (1) The licensee is in compliance with Section 80092.1.
 - (2) The physician has documented that the gastrostomy is completely healed.
 - (3) The licensee monitors the client's ongoing ability to provide all routine feeding, hydration and care for his/her gastrostomy in accordance with the physician's instructions.
 - (4) The licensee ensures that gastrostomy feeding, hydration, medication administration through the gastrostomy, and stoma cleaning are provided by a licensed professional when the client is unable to provide his/her own feeding, hydration and care.
 - (A) The licensed professional may delegate the following tasks to facility staff who receive training from a licensed professional as specified in Sections 80092.1(k) through (k)(2):
 - 1. Gastrostomy feeding, hydration, and stoma cleaning.
 - 2. For routine medications, trained staff may add medication through the gastrostomy per physician's or nurse practitioner's orders.

80092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE
(Continued)**80092.10**

3. For PRN medications, trained staff may add medications through the gastrostomy in accordance with Sections 80075(b) through (e).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80092.11 TRACHEOSTOMIES**80092.11**

- (a) A licensee of an adult CCF may accept or retain a client who has a tracheostomy if all of the following conditions are met:
 - (1) The licensee is in compliance with Section 80092.1.
 - (2) Either the client is mentally and physically capable of providing all routine care for his/her tracheostomy and the physician has documented that the tracheostomy opening (stoma) is completely healed, or assistance in the care of the tracheostomy is provided by a licensed professional.
 - (A) The licensed professional may delegate routine care for the tracheostomy to facility staff who receive supervision and training from the licensed professional as specified in Sections 80092.1(k) through (k)(2).
 1. Suctioning shall not be delegated to facility staff.
 - (3) The licensee monitors the client's ongoing ability to provide all routine care for his/her tracheostomy in accordance with the physician's instructions.
 - (4) The licensee ensures that tracheostomy care is provided by a licensed professional when the client is unable to provide self-care.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

80093 DEPARTMENT REVIEW OF HEALTH-RELATED CONDITIONS 80093

- (a) The Department may review actual or suspected health-related conditions, including those specified in Section 80092 to determine if a client is appropriately placed in the facility and if the client's health-related needs are being met. The Department will inform the licensee that the client's health-related condition requires review and will specify documentation that the licensee shall submit to the Department.
- (1) Documentation includes, but is not limited to, the following:
- (A) Restricted Health Condition Care Plan, if applicable.
 - (B) Needs and Services Plan.
 - (C) Copies of prescriptions for medical services and/or medical equipment.
- (2) The licensee shall submit the documentation to the Department within 10 working days.
- (b) If the Department determines that the client has a restricted health condition, as specified in Section 80092, the licensee shall provide care to the client in accordance with conditions specified in Sections 80092.1 and applicable requirements in Sections 80092.3 through 80092.11. If the licensee is not able to provide adequate care, the client shall be relocated.
- (c) If the Department determines that the client has a prohibited health condition, as specified in Section 80091 or a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility, the Department will order relocation of the client as specified in Section 80094.
- (1) The notification to the licensee will include notice of all appeal rights, as specified in Section 80094.
- (d) This section does not entitle the licensee to a full evidentiary hearing, state hearing, or any other administrative review beyond that set forth in this section.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

80094 HEALTH CONDITION RELOCATION ORDER**80094**

- (a) In an adult CCF the Department will order relocation of a client if the Department makes any of the following determinations:
- (1) The client has a prohibited health condition, as specified in Section 80091.
 - (2) The licensee has not met all requirements in Sections 80092.1 and applicable requirements in Sections 80092.3 through 80092.11.
 - (3) The client has a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility.
- (b) The Department will give written notice to the licensee ordering the relocation of the client and informing the licensee of the client's right to an IDT review of the relocation order.
- (1) Concurrently the Department will give the notice of the health condition relocation order and information about the client's right to request review of the relocation order to the client. The Department will mail, by certified mail, or deliver a copy within one working day to the client's authorized representative, if any and responsible person.
 - (A) If the client has no authorized representative, as defined in Section 80001, the relocation order shall be sent to the responsible person and representative payee, if any.
 - (2) The health condition relocation order will state the reason for the relocation order and cite the regulation(s) requiring the relocation.
 - (3) Upon receipt of the relocation order, the licensee shall prepare a written relocation plan in compliance with Section 80078.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530, 1531, and 1556, Health and Safety Code.

80094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH CONDITION RELOCATION ORDER BY THE INTERDISCIPLINARY TEAM (IDT) 80094.5

- (a) A client or the client's authorized representative, if any, may request a review of the Department's health condition relocation order by the IDT.
- (b) The client or the client's authorized representative, if any, has 10 working days from receipt of the relocation order to submit to the licensee a written, signed, and dated request for a review and determination by the IDT.
 - (1) For purposes of this section, a working day is any day except Saturday, Sunday, or an official state holiday.
- (c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.
 - (1) Failure or refusal to do so may subject the licensee to civil penalties, as provided in Section 80054.
- (d) Within five (5) working days of receipt by the Department of the request for review, the Department will give written notification to the licensee, client and the client's authorized representative, if any, acknowledging receipt of the client's request for review of the relocation order.
- (e) Within twenty (20) working days from receipt of the client's review request, the licensee shall submit to the Department the documentation specified in this section to complete the client's review request.
 - (1) If the information is not received within twenty (20) days, the request for review will be considered withdrawn, the licensee will be notified, and the relocation plan will be implemented.
- (f) The licensee shall cooperate with the client and the client's authorized representative, if any, in gathering the documentation to complete the client's review request.
- (g) The documentation to complete the client's review request shall include, but not be limited to, the following:
 - (1) The reason(s) for disagreeing that the client has the health condition identified in the relocation order and why the client believes he/she may legally continue to remain in a CCF.

80094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH CONDITION RELOCATION ORDER BY THE INTERDISCIPLINARY TEAM (IDT) **80094.5**
(Continued)

- (2) Current health and functional capabilities assessments, as specified in Sections 80069 and 80069.2.
 - (A) For purposes of this section, "current" means a medical assessment completed on or after the date of the relocation order.
- (3) A written statement from any placement agency currently involved with the client addressing the relocation order.
- (h) The Department will inform the licensee, client and the client's authorized representative, if any, in writing, of the IDTs determination and the reason for that determination not more than 30 days after the Department's receipt of the information required in this section.
- (i) A client does not have a right to a review under this section in any of the following circumstances:
 - (1) A health condition relocation order has been issued under Section 80078(b)(6).
 - (2) A client has been evicted under Section 80068.5.
 - (3) A temporary suspension order has been issued under Section 80042.
- (j) This section does not entitle the client to a right to a state hearing or any other administrative review beyond that set forth in this section.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1507, 1530, and 1556, Health and Safety Code.

80095 CLIENTS IN CARE AT TIME OF FINAL ADOPTION OF REGULATIONS **80095**

Repealed by Manual Letter No. CCL-02-10, effective 9/8/02.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

